S. HRG. 98-280

FEDERAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT SYSTEMS

HEARING

BEFORE THE

SUBCOMMITTEE ON JUVENILE JUSTICE

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 52, S. 53, S. 889, and S. 901

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CONTENTS

OPENING STATEMENT

Page

Specter, Hon. Arlen, a U.S. Senator from the State of Pennsylvania, chairman, Subcommittee on Juvenile Justice 1

PROPOSED LEGISLATION

S. 52.—The Armed Career Criminal Act of 1983 3
S. 53.—Justice Assistance Act of 1983 7
S. 889.—Department of Justice National Violent Crime Program Authorization Act, fiscal year 1984 15
S. 901.—Justice Programs and Infrastructure Assistance Act of 1983 21

CHRONOLOGICAL LIST OF WITNESSES

Zimmerman, Hon. Leroy, attorney general, Commonwealth of Pennsylvania 24
Lewis, Hon. Richard A., district attorney, Dauphin County, Harrisburg, Pa 30
Marks, Ronald J., commissioner, Bureau of Corrections, Commonwealth of Pa 35
Blumstein, Prof. Alfred, Carnegie Mellon University School of Urban and Public Affairs, Pittsburgh, Pa 45

ALPHABETICAL LISTING AND MATERIALS SUBMITTED

Blumstein, Prof. Alfred:
Testimony 45
Prepared statement 51
Lewis, Hon. Richard A.:
Testimony 30
Prepared statement 35
Marks, Ronald J.:
Testimony 38
Prepared statement 40
Zimmerman, Hon. Leroy: Testimony 24

FEDERAL ASSISTANCE TO STATE AND LOCAL LAW ENFORCEMENT SYSTEMS

TUESDAY, APRIL 5, 1983

U.S. SENATE,
SUBCOMMITTEE ON JUVENILE JUSTICE,
COMMITTEE ON THE JUDICIARY,
Harrisburg, Pa.

The subcommittee met pursuant to notice at 9 a.m., in room 22, Capitol Annex, Harrisburg, Pa., Hon. Arlen Specter (chairman of the subcommittee) presiding.

OPENING STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA, CHAIRMAN OF THE SUBCOMMITTEE ON JUVENILE JUSTICE

Senator SPECTER. Good morning ladies and gentlemen. We will begin this hearing of the Judiciary Committee of the U.S. Senate. The purpose of the hearing today is to explore a variety of questions relating to criminal law enforcement, with specific emphasis on the Justice Assistance Act, S. 53, and with some reference to the career criminal bill, S. 52, and also to some recently introduced legislation, S. 889, which I introduced last month, and S. 901, introduced by Senator Dole.

This is another of many trips that I have made to the State capitol and to the Commonwealth of Pennsylvania to discuss this subject over the course of the past two decades, working with a variety of distinguished Pennsylvanians, including those who will be on the panel here this morning. The problem of violent crime is one which needs no emphasis in terms of explanations about its import. In a 3-year period, from 1979 to 1981 some 67,000 Americans were murdered and some 3,700,000 Americans were injured as a result of rape, robbery, and armed assault. This figure is 10,000 more than all the Americans who were killed in Vietnam, and some 10 times more than those who were wounded in Vietnam. When you take a look at statistics on crime and compare them to other acts of violence or war, the seriousness of the matter is astounding.

There has been, in my judgment, an insufficient response on any level, especially the Federal level. In the past 2 years on the Senate Judiciary Committee I have introduced a number of pieces of legislation designed to move toward the correction of this problem. Other colleagues, Senator Thurmond, Senator Biden, and Senator Dole have joined me.

One of the measures introduced last year was the Justice Assistance Act. Another was the Career Criminal Act. They were part of

a seven-bill package which passed the Congress last year. Unfortunately, the package was vetoed by the President because he was unhappy with one of the bills—the drug czar—which he thought was an infringement on executive authority. He had some reservation, I might add, about the career criminal bill, but President Reagan has now personally endorsed it and had the drug czar bill not been included, I think the seven-part package would have passed.

We are back at it again this year. The legislation for the most part has been reintroduced and that which has not been reintroduced so far will be. The Justice Assistance Act and the career criminal bill have been reintroduced along with Senator Dole's bill, S. 901, regarding prisons and my proposed bill S. 889, which is a $100 billion attack on violent crime over the course of the next 10 years.

S. 889 is calculated to allocate 1 percent of the national resources of the Federal budget to an attack on crime; to move for faster trials to stop those who are on bail from committing other offenses; to move for tougher sentences when we deal with the career criminals; to provide realistic rehabilitation so we do not have a so-called correctional system which turns out functional illiterates without a trade or the ability to read or write, where it is no surprise that they return to a life of crime; and to provide incarceration where rehabilitation is not possible.

[The texts of S. 52, S. 53, S. 889, and S. 901 follow:]

II

98TH CONGRESS
1ST SESSION

S. 52

To combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

IN THE SENATE OF THE UNITED STATES

JANUARY 26 (legislative day, JANUARY 25), 1983

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

A BILL

To combat violent and major crime by establishing a Federal offense for continuing a career of robberies or burglaries while armed and providing a mandatory sentence of life imprisonment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Armed Career Criminal Act of 1983".

SEC. 2. Chapter 103 of title 18, United States Code, is amended by adding at the end thereof the following section:

"§ 2118. Armed career criminals

"(a) Any person who while in possession of any firearm commits, or conspires or attempts to commit robbery or burglary in violation of the felony statutes of the State in which such offense occurs or of the United States—

"(1) may be prosecuted for such offense in the courts of the United States if such person has previously been twice convicted of robbery or burglary, or an attempt or conspiracy to commit such an offense, in violation of the felony statutes of any State or of the United States; and

"(2) shall, if found guilty pursuant to this section, and upon proof of the requisite prior convictions to the court at or before sentencing, be sentenced to a term of imprisonment of not less than fifteen years nor more than life and may be fined not more than $10,000.

"(b) Notwithstanding any other provision of law: (1) any person charged pursuant to this section shall be admitted to bail pending trial or appeal as provided in section 3148 of title 18, United States Code; (2) the prior convictions of any person charged hereunder need not be alleged in the indictment nor shall proof thereof be required at trial to establish the jurisdiction of the court or the elements of the offense; (3) any person convicted under this section shall not be granted probation nor shall the term of imprisonment imposed under paragraph (a), or any portion thereof, be suspended; and (4)

any person convicted under this section shall not be released on parole prior to the expiration of the full term of imprisonment imposed under paragraph (a).

"(c) For purposes of this section—

"(1) 'United States' includes the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States;

"(2) 'felony' means any offense punishable by a term of imprisonment exceeding one year; and

"(3) 'firearm' has the meaning set forth in section 921 of title 18, United States Code.

"(d) Except as expressly provided herein, no provision of this section shall operate to the exclusion of any other Federal, State, or local law, nor shall any provision be construed to invalidate any other provision of Federal, State, or local law.

"(e) Ordinarily, armed robbery and armed burglary cases against career criminals should be prosecuted in State court. However, in some circumstances such prosecutions by State authorities may face undue obstacles. Therefore, any such case lodged in the office of the local prosecutor may be received and considered for Federal indictment by the Federal prosecuting authority, but only upon request or with the concurrence of the local prosecuting authority. Any such case presented by a Federal investigative agency to the Federal

prosecuting authority, however, may be received at the sole discretion of the Federal prosecuting authority. Regardless of the origin of the case, the decision whether to seek a grand jury indictment shall be in the sole discretion of the Federal prosecuting authority.

SEC. 3. The table of sections for chapter 103 of title 19, United States Code, is amended by adding at the end thereof the following new item:

"2118. Armed career criminals."

SEC. 4. (a) It is the intent of Congress that any person prosecuted pursuant to this Act be tried expeditiously and that any appeal arising from a prosecution under this Act be treated as an expedited appeal.

(b) This section shall not create any right enforceable at law or in equity in any person, nor shall the court have jurisdiction to determine whether or not any of the procedures or standards set forth in section 2(e) or this section have been followed.

By Mr. SPECTER (for himself, Mr. BIDEN, Mr. MATHIAS, Mr. HEFLIN, Mr. KENNEDY, and Mr. HAWKINS):

S. 53. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

S. 53—JUSTICE ASSISTANCE ACT OF 1983

Mr. SPECTER. Mr. President, today I reintroduce a bill, which has a reserved number of S. 53, entitled the Justice Assistance Act of 1983. This bill redesigns and reauthorizes Federal criminal justice assistance to aid State and local law enforcement efforts. As recognized by the Attorney General's Task Force on Violent Crime, and well appreciated by those serving in law enforcement and by the American people, crime is a national problem that gravely threatens this country's welfare.

The subcommittee of the Senate Committee on the Judiciary with jurisdiction over Federal assistance to State and local law enforcement held extensive hearings into this entire area last Congress. I look forward to working with my colleagues in what I hope will be a revived, bipartisan effort to serve the Nation's vital interest in a renewed and reauthorized criminal justice assistance effort.

The anticrime proposal I introduce today fully recognizes the predominately State and local nature of law enforcement with express guarantees of their sovereignty and explicit limitation on the Federal authority involved. In addition, the bill envisions only a minimum of administrative and

management structure. Indeed, the bill eliminates the Office of Justice Assistance, Research and Statistics and the Law Enforcement Assistance Administration.

In their place I call for a streamlined Office of Justice Assistance and reauthorization of the National Institute of Justice and Bureau of Justice Statistics to fulfill the Federal Government's proper role in assisting local law enforcement—that of financing research, collecting statistics, and funding demonstration projects for promising, innovative approaches to fighting crime. In addition, in light of the inextricable limitations and conflicting demands on the resources of local and State governments, this bill establishes a small fund to assist local communities to implement the acknowledged programs of proven effectiveness that have been developed over the past decade. The mechanism for delivering this assistance is intended to insure local commitment and institutionalization of the project by gradually increasing the contribution made by the local community to the program and decreasing that of the Federal Government. I am confident that this will insure maximum effectiveness for the limited Federal investment.

In addition, this bill creates authority for emergency criminal justice assistance to States and localities faced with a criminal justice disaster. Such authority is sorely needed. Although none of us wish to see such a program invoked, as the Attorney General's task force recognized, the Federal Government should have such resources at the ready so as not to lose precious time responding in compelling circumstances.

This bill seeks a new set of solutions to the bureaucratic problems that have plagued OJARS and were, in large part, responsible for the demise of LEAA.

In seeking to realize every economy and maximum the effectiveness of the Federal participation in its proper assistance role I have been able to formulate a program without a prohibitive price tag. Indeed, the authorization included in this bill is only $150 million a year for efforts Congress had, not so many years ago, authorized over $1 billion a year to accomplish. In order to achieve this economy I have structured a program that does away with State block grants and their cumbersome regulatory framework. In this way, all applicants, including States, will be allowed direct access to the competitive application process.

Finally, after careful consideration, I have concluded that the problems of juvenile delinquency are best confronted by a separate and coordinated office of juvenile justice. The Juvenile Justice and Delinquency Prevention Act, which was last amended in 1980 and reauthorized through 1984, continues to provide a sound framework for such activities and should be retained.

I urge my colleagues to join me and the other cosponsors, the Senator from Delaware (Mr. BIDEN), the Senator from Maryland (Mr. MATHIAS), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Montana, (Mr. BAUCUS) in an expedited consideration of this measure so that we may act before the current authorizations of the Federal research and statistics program expire at the end of this year.

Mr. President, I ask unanimous consent that the full text of a bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Justice Assistance Act of 1983".

TITLE I—AMENDMENTS TO OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

DECLARATION AND PURPOSE

SEC. 2. The declaration and purpose contained in title I of the Omnibus Crime Control and Safe Streets Act of 1968 (82 Stat. 197; 42 U.S.C. 3701) is amended to read as follows:

"DECLARATION AND PURPOSE

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated and intensified, and made more effective and equitable at all levels.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local government, the financial and technical resources of the Federal Government should be made available to assist in the development of innovative and effective National, State, and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require systematic and sustained action by Federal, State, and local governments; and continuing efforts at all levels to streamline programs and upgrade the functioning of agencies responsible for planning, implementing, and evaluating efforts to improve justice systems.

"It is, therefore, the declared policy of the Congress to aid in strengthening and improving justice systems by providing assistance with maximum certainty and effectiveness and minimum delay and waste. It is the purpose of this title to authorize funds and technical assistance (1) to be used to strengthen justice systems; (2) to develop and fund new methods and programs to enhance the effectiveness of justice systems; (3) to support the development of National, State, and local priorities and programs to meet the problems confronting justice systems; (4) to reduce court congestion and trial delay; (5) to support community and neighborhood anti-crime efforts; (6) to improve and modernize correctional systems and encourage rehabilitation; (7) to encourage the undertaking of promising, innovative projects and programs to combat crime; (8) to encourage research directed toward the improvement of justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) to encourage the collection and analysis of statistical information concerning justice systems and the development and operation of justice information systems; (10) to develop and implement programs assisting victims, jurors, and witnesses; and (11) to support law enforcement-related personnel development and training efforts.

"It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for justice activities below the level of such support prior to the availability of such assistance."

OFFICE OF JUSTICE ASSISTANCE

SEC. 3. (a) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended in the heading to such part by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 101 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711) is amended to read as follows:

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE

"SEC. 101. (a) There is established within the Department of Justice under the general authority of the Attorney General an Office of Justice Assistance (hereinafter referred to in this part as the 'Office').

"(b) The Office shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director may appoint Deputy Directors to assist in the direction of the Office. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director, nor shall the Director hold any office in, or in any capacity for, any organization, agency, or institution with which the Office makes any contract or other arrangement under this title.".

(c) Section 102 of part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended—

(1) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director",

(2) in paragraph (1) by—

(A) striking out "States and units of local government" and inserting in lieu thereof "applicants", and

(B) striking out "D" and inserting in lieu thereof "D and E",

(3) by amending paragraph (2) to read as follows:

"(2) recognize national priorities for programs and award and allocate funds and technical assistance consistent with parts D and E;",

(4) in paragraph (4) by striking out "Administration" and inserting in lieu thereof "office", and

(5) in paragraph (8) by strikingout "H" and inserting in lieu thereof "G".

(6) in the heading for such section by striking out "administrator" and inserting in lieu thereof "director".

(d) Part A of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711-3713) is amended by striking out section 103.

NATIONAL INSTITUTE OF JUSTICE

SEC. 4. (a) Section 202 of part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722) is amended—

(1) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Institute shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director may appoint Deputy Directors to assist in the direction of the Institute. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for any organization, agency, or institution with which the Institute makes any contract or other arrangement under this title.",

(2) in subsection (c)—

(A) in paragraph (2) (A) by striking out ", including programs authorized by section 103 of this title",

(B) by striking out paragraph (9),

(C) in paragraph (10) by striking out "as national priority grants under part E and discretionary grants under part F; and", and inserting in lieu thereof "under parts D and E",

(D) by redesignating paragraphs (10) and (11) as paragraphs (9) and (10) respectively;

(E) by striking out the period at the end of paragraph (10) as redesignated and inserting in lieu thereof "; and", and

(F) by adding at the end of such subsection the following new paragraph:

"(11) provide financial assistance to encourage replication, coordination, and sharing among State and local justice agencies and public and private nonprofit organizations regarding successful programs or projects and useful information resulting from multiyear and short-term research and development activities authorized under this part.", and

(3) in subsection (d)(5) by striking out "E" and inserting in lieu thereof "G".

(b) Part B of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3724) is amended by striking out section 204.

BUREAU OF JUSTICE STATISTICS

SEC. 5. (a) Section 301 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3731) is amended in the first sentence by adding after "and to support the development of" the following: "both".

(b) Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732) is amended—

(1) in subsection (a) by inserting before "Bureau" the word "the", and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) The Bureau shall be headed by a Director who shall be appointed by the President, with the advice and consent of the Senate. The Director shall be experienced in statistical and information programs. The Director may appoint Deputy Directors to assist in the direction of the Bureau. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall have primary authority over administrative functions as may be necessary to carry out the provisions of this title. The Director shall not engage in any employment other than that of serving as Director; nor shall the Director hold any office in, or in any capacity for, and organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.", and

(3) by amending subsection (c)—

"(13) provide financial and technical assistance to States and units of local government relating to collection, analysis, or dissemination of justice statistics and development of justice information systems which produce statistical and operational data;",

(B) in paragraph (16) by amending such paragraph to read as follows:

"(16) insure conformance with security and privacy regulations issued pursuant to section 716 and assist in the development of guidelines for statistics, privacy and security, and information policy;",

(C) in paragraph (17) by striking out "H" and inserting in lieu thereof "G" and redesignating paragraph (17) of such subsection as paragraph (16),

"FEDERAL SHARE

"SEC. 402. (a) Financial awards under this part shall be made for a period of up to four years. The Federal share of project or program costs for grants of specified duration shall be in accordance with the following formula:

"(1) Four year grants—not to exceed 90 per centum in the first year, 75 per centum in the second year, 50 per centum in the third year, and 25 per centum in the fourth year.

"(2) Three year grants—not to exceed 75 per centum in the first year, 50 per centum in the second year, and 25 per centum in the third year.

"(3) Two year grants—not to exceed 50 per centum in the first year and 25 per centum in the second year.

"(4) One year grant—not to exceed 50 per centum.

"USES

"SEC. 403. (a) The Director of the Office of Justice Assistance is authorized to make grants providing assistance to implement programs and projects that address critical problems of violent and serious offenses and which programs are certified by the Director as having proven a success on the basis of objective, empirical, or statistical information or evaluation in accordance with criteria developed by the Office of Justice Assistance. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country and no State shall receive more than five percent of the total dollar amount of grants awarded under this part annually. The Director shall give priority to programs and projects that—

"(1) identify and process within justice systems persons with a history of serious criminal conduct;

"(2) provide programs that address the problems of serious and violent offenses committed by juveniles;

"(3) combat arson;

"(4) disrupt illicit commerce in stolen goods and property;

"(5) effectively investigate and bring to trial white-collar crime, organized crime, public corruption crimes and fraud against the Government;

"(6) provide community and neighborhood programs that enable citizens and police to undertake initiatives to prevent and control neighborhood crime;

"(7) provide programs to speed the trial of criminal cases, reform sentencing practices and procedures, improve the efficiency of the jury system, and improve the processing of cases involving the mentally incompetent and pleas of mental incapacity;

"(8) provide training, management, and technical assistance to justice personnel;

"(9) coordinate the activities of components of the criminal justice system;

"(10) develop and implement programs which provide assistance (other than compensation) to jurors, witnesses, and victims of crime;

"(11) provide programs which address offenses committed against the elderly;

"(12) provide programs which identify and meet the needs of drug-dependent offenders;

"(13) provide alternatives to pretrial detention, jail, and prison for persons who pose no danger to the community;

"(14) provide programs which alleviate prison and jail overcrowding; and

"(15) provide programs that address critical problems of crime, such as drug trafficking, and have been certified by the Director of the Office, after consultation with the Director of the Institute, as having proven successful, based on available objective, empirical or statistical data, information, or evaluation.

"(b) The Director of the Office of Justice Assistance shall annually establish funding priorities and selection criteria for assistance after first providing notice and an opportunity for public comment. In establishing such priorities and criteria, the Director shall specify the amount of assistance available for each national priority initiative selected for replication using Federal assistance.

"APPLICATIONS

"SEC. 404. (a) No grant may be made pursuant to this part unless an application has been submitted to the Director in accordance with criteria established by the Office of Justice Assistance. Awards shall be given to those applicants that most clearly satisfy the funding priorities and selection criteria as established by the Office of Justice Assistance.

"(b) Applications must include a commitment and evidence of ability to fulfill the applicant's share of project or program costs over the term of the grant by cash match and evidence a commitment to continuing the project or program beyond the term of the grant.

"(c) At least 30 per centum of the funds reserved and set aside for this part shall be allocated to private nonprofit organizations and neighborhood and community-based groups for the purposes specified in this part.".

NATIONAL PRIORITY GRANTS

SEC. 7. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701 et seq.) is amended by striking out part E.

DISCRETIONARY GRANTS

SEC. 8. (a) Sections 601, 602, and 603 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3763) are amended to read as follows:

"PURPOSE

"SEC. 501. The purpose of this part is to provide additional Federal financial assistance to States, units of local government, combinations of such units, and private nonprofit organizations for purposes of—

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of governments;

"(3) undertaking projects which are national or multi-State in scope, which address the purposes specified in section 401, and which have not received sufficient funds under part D; and

"(4) providing financial assistance for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction and are not likely to be funded with moneys from other sources.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"SEC. 502. Of the total amount appropriated for part D and this part in any fiscal year—

"(1) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501; and

"(2) 10 per centum shall be reserved and set aside for this part in a special discretionary fund for use by the Office in making grants to carry out the purposes specified in paragraph (4) of section 501.

The Director shall ensure that recipients of grants to carry out the purposes specified in paragraphs (1), (2), and (3) of section 501 included private nonprofit organizations. Grants under this part may be made for amounts up to 100 per centum of the costs of the programs or projects contained in the approved application. The National Institute of Justice shall review the types of programs described in section 501 of part E of this title for the purpose of identifying programs of proven success, and the Director of the National Institute of Justice shall consult with the Director of the Office of Justice Assistance in such matters.

"PROCEDURE FOR ESTABLISHING FUNDING AND SELECTION CRITERIA

"SEC. 503. The Director of the Office of Justice Assistance shall annually establish funding priorities and selection criteria for assistance after first providing notice and an opportunity for public comment.".

Section 604 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3764) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(c) Section 605 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3765) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by striking out the third sentence, and

(3) by striking out "each type of section 402 eligible jurisdiction" and inserting in lieu thereof "State their needs. In making grants under this part, the Director shall consider geographic distribution in order to benefit all sections of the country.".

(d) Section 606 of part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3766) is amended—

(1) by striking out "Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance". Assistance, and

(2) in the last sentence by striking out "602(1)" and inserting in lieu thereof "502".

(e) The heading for part F of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3761-3766) is amended by striking out "PART F" and inserting in lieu thereof "PART E".

(f) Part E of title I, as so redesignated, is amended by redesignating sections 604, 605, and 606 as sections 504, 505, and 506 respectively.

TRAINING AND MANPOWER DEVELOPMENT

SEC. 9. (a) Part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701-3775) is amended—

(1) by striking out sections 701, 702, and 703,

(2) in section 705 by striking out "Administration" each place it appears and inserting in lieu thereof "Office", and

(3) by redesignating sections 704 and 705 as sections 601 and 602, respectively.

(b) The heading for part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771-3775) is amended by striking out "Part G" and inserting in lieu thereof "Part F".

ADMINISTRATIVE PROVISIONS

SEC. 10. (a) Part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781 et seq.) is amended by striking out section 801 and inserting in lieu thereof the following:

"ESTABLISHMENT OF JUSTICE ASSISTANCE BOARD

"SEC. 801. (a) There is established a Justice Assistance Board (hereafter referred to as the 'Board'). The Board shall consist of—

"(1) fifteen voting members who shall be appointed by the President; and

"(2) the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, who shall be nonvoting, ex officio members; and

"(3) two nonvoting, coordinating members from the National Advisory Committee for Juvenile Justice and Delinquency Prevention.

"(b) Members shall represent the public interest and shall be knowledgeable and experienced in the justice system, such as law enforcement personnel, prosecutors, public and defense attorneys, judges, court administrators, probation and correctional personnel, researchers and scholars, representatives of public and private nonprofit and voluntary organizations, including those which offer programs of assistance to victims of crime, representatives of neighborhood and community-based groups and representatives of local and State governments. Five members shall be experienced in the types of programs and services provided by the Office of Justice Assistance; five members shall be experienced in the types of programs and services provided by the National Institute of Justice; and five members shall be experienced in the types of programs and services provided by the Bureau of Justice Statistics.

"(c)(1) Voting members of the Board shall be appointed for 3-year terms, except that in order to provide for continuity in its operations and to establish staggered groups of vacancies, five members of the initial Board shall be appointed for 4-year terms, five members of the initial Board shall be appointed for 3-year terms, and five members of the initial Board shall be appointed for 2-year terms.

"(2) The initial appointment of members shall be made not later than ninety days after the effective date of the Justice Assistance Act of 1982. Vacancies among Board members shall be filled within ninety days of the vacancy. Any member appointed to fill a vacancy occurring before the scheduled expiration of a term shall be appointed for the remainder of such term. Members shall be eligible for reappointment, but shall serve consecutively no more than two terms or six years, whichever is less. Members once appointed, may not be removed prior to the expiration of their term except for cause.

"(d) The Board shall elect from among its voting members a Chair and Vice Chair. The Board shall select from among its voting members two representatives to serve as nonvoting coordinating members on the National Advisory Committee of Juvenile Justice and Delinquency Prevention.

"(e) The Board shall meet at the call of the Chair, but not less frequently than quarterly. Notice of all Board meetings shall be published. Eight voting members of the Board shall constitute a quorum.

"(f) The Board shall—

"(1) recommend funding priorities and selection criteria to be used in determining the award and allocation of funds through the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics;

"(2) recommend such policies and program priorities as it deems advisable;

"(3) review and evaluate the activities of the Office of Justice Assistance, the National Institute of Justice, and the Bureau of Justice Statistics and make such recommendations as it considers necessary or appropriate;

"(4) in the event of vacancies, recommend to the President at least three candidates for the positions of Director of the Office of Justice Assistance, Director of the National Institute of Justice, and Director of the Board of Justice Statistics;

"(5) review and evaluate Federal policies and priorities in justice assistance, research, and statistics; and

"(6) coordinate its activities with the National Advisory Committee for Juvenile Justice and Delinquency Prevention and the Coordinating Council on Juvenile Justice and Delinquency Prevention.

"(g) Beginning January 1, 1984, the Board shall submit an annual report to the President and to the Congress not later than April 1 of each year and may submit such interim reports as it considers advisable to the President and to the Congress. Each annual report shall describe the activities of the Board during the preceding fiscal year and shall contain such findings and recommendations as the Board considers necessary or appropriate.

"(h) The head of each Federal Agency shall make available to the Board such information and other assistance as it may require to carry out its responsibilities. The Board shall not have any authority to procure any temporary or intermittent services of any personnel under section 3109 of title 5, United States Code, or under any other provision of law.

"(i)(1) Members of the Board shall, while engaged in the actual performance of the duties vested in the Board, be entitled to receive compensation at a rate not to exceed the daily rate specified for grade GS-18 of the General Schedule in section 5332 of title 5, United States Code, including travel time.

"(2) Members of the Board shall be entitled to reimbursement for travel expenses, including per diem in lieu of subsistence, while serving away from their place of residence or regular place of business, in the same manner as the expenses are authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently.".

(b) Section 802 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3782) is amended—

(1) in subsection (a) by striking out "The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," and inserting in lieu thereof "The Office of Justice Assistance, the Office of Juvenile Justice and Delinquency Prevention,", and

(2) in subsection (b)—

(A) by striking out "Law Enforcement Assistance Administration" and "Law Enforcement Assistance Administration" each place they appear and inserting in lieu thereof "Office of Justice Assistance",

(B) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics,",

(C) by striking out "parts D, E, and F" and inserting in lieu thereof "parts D and E",

(D) by striking out the second sentence,

(E) by amending the third sentence to read as follows: "In conducting evaluations described in this subsection, the Office of Justice Assistance, with the assistance and expertise of the National Institute of Justice, shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants.", and

(F) by striking out "administration" and inserting in lieu thereof "Office".

(c) Section 803 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3783) is amended—

(1) by striking out "Law Enforcement Assistance Administration" each place it appears and inserting in lieu thereof "Office of Justice Assistance",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," after "Bureau of Justice Statistics," each place it appears, and

(3) in subsection (c) by striking out "Administration," and inserting in lieu thereof "Office,".

(d) Section 804 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3784) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(e) Section 805 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3785) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration," each place it appears and inserting in lieu thereof "Office of Justice Assistance,",

(2) by inserting "the Office of Juvenile Justice and Delinquency Prevention," before "or the National Institute of Justice" each place it appears,

(3) in subsection (a) by striking out "section 803, 804, or 815(c)(2)(G)" and inserting in lieu thereof "section 702, 793, or 713(c)(2)(G)", and

(4) in subsection (b) by inserting "the Office of Juvenile Justice and Delinquency Prevention" before "or the Bureau of Justice Statistics".

(f) Sections 806 and 807 of part P of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3786-3787) are each amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics,", and

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(g) Sections 810 and 811 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3788-3789) are amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," each place it appears,

(2) by striking out ", and the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, and the Office of Justice Assistance".

(h) Section 812 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789a) is amended by striking out "Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administrator," and inserting in lieu thereof "Director of the Office of Justice Assistance, the Administrator of the Office of Juvenile Justice and Delinquency Prevention,".

(i) Section 813 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789b) is amended in subsections (a) and (b)—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(j) Section 814 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789c) is amended—

(1) in subsections (a) and (b)—

(A) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(B) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(2) in subsection (c) by striking out "Administration" and inserting in lieu thereof "Office".

(k) Section 815 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789d) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention", and

(2) in subsection (b) by striking out "or the Law Enforcement Assistance Administration" and inserting in lieu thereof "the Office of Juvenile Justice and Delinquency Prevention, or the Office of Justice Assistance".

(l) Section 816 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789e) is amended to read as follows:

"REPORT TO PRESIDENT AND CONGRESS

"Sec. 816. Not later than April 1 of each year, the Director of the Office of Justice Assistance, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall each submit a report to the President and to the Congress on their activities under this title during the preceding fiscal year.".

(m) Section 817 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789f) is amended—

(1) by striking out "Office of Justice, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance",

(2) in subsection (d) by striking out "section 815(c)" each place it appears and inserting in lieu thereof "section 712(c)", and

(3) in subsection (f)—

(A) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(B) by striking out "Administrator" each place it appears and inserting in lieu thereof "Director".

(n) Section 818 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789g) is amended by striking out "Office of Justice Assistance, Research, and Statistics" each place it appears and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance".

(o) Section 819 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789h) is amended—

(1) by striking out "Office of Justice Assistance, Research, and Statistics," and inserting in lieu thereof "Office of Juvenile Justice and Delinquency Prevention,", and

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(p) Section 820(a) of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789i(a)) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(q) Section 823 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789l) is amended by striking out "Administration" and inserting in lieu thereof "Office".

(r) Section 826 of part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3789o) is amended—

(1) by striking out "council" each place it appears,

(2) by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance", and

(3) by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(s) The heading for part H of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by striking out "Part H" and inserting in lieu thereof "Part G".

(t) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789o) is amended by redesignating sections 801, 802, 803, 804, 805, 806, 807, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, and 827 as sections 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, and 725 respectively.

(u) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789c) is amended by striking out sections 808 and 809.

(v) Part G, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3781-3789c) is amended by adding at the end thereof the following new sections:

"REPAYMENT

"Sec. 726. (a) If Federal financial assistance provided under this part is used by the recipient of such assistance for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the United States an amount equal to the value of such assistance.

"(b) The Director shall bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).".

DEFINITIONS

Sec. 11. (a) Section 901 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) Section 901(a)(4) of part I of title I of the Omnibus Crime Control and Safe

Streets Act of 1968 (42 U.S.C. 3791(a)(4)) is amended—

(1) by inserting "renovation, repairs, remodeling," after "acquisition," and

(2) by striking out ", but does not include renovation, repairs, or remodeling".

(c) The heading for part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by striking out "Part I" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended by redesignating section 901 as section 801.

FUNDING

SEC. 121. (a) Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a) There is authorized to be appropriated to carry out the functions of the Office of Justice Assistance, parts D and E of this title, $100,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987.

"(b) There is authorized to be appropriated to carry out the functions of the National Institute of Justice $5,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987.

"(c) There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics $25,000,000 for each of the fiscal years 1984, 1985, 1986, and 1987.

"(d) There are authorized to be appropriated for each of the fiscal years 1984, 1985, 1986, and 1987 such sums as may be necessary to carry out the purposes of part K of this title.".

(b) Part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793–3793b) is amended by striking out sections 1002 and 1003 and inserting in lieu thereof the following new section:

"PROHIBITION ON USE OF FUNDS

"SEC. 1002. Notwithstanding any other provision of law, no funds appropriated under this section for parts D and F of this title may be expended for programs or projects involving the resolution of civil disputes or may be transferred or reprogramed for carrying out any activity which is not authorized under such parts.".

(c) The heading for part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793–3793b) is amended by striking out "Part J" and inserting in lieu thereof "Part I".

(d) Part I, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C 3793–3793b) is amended by redesignating sections 1001 and 1002 as sections 901 and 902, respectively.

CRIMINAL PENALTIES

SEC. 13. (a) Section 1101 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(b) Section 1103 of part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by striking out "Law Enforcement Assistance Administration" and inserting in lieu thereof "Office of Justice Assistance".

(c) The heading for part K of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by striking out "Part K" and inserting in lieu thereof "Part H".

(d) Part H, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3795–3795b) is amended by redesignating sections 1101, 1102, and 1103 as sections 1001, 1002, and 1003, respectively.

PUBLIC SAFETY OFFICERS' DEATH BENEFITS

SEC. 14. (a) Sections 1201 and 1204 of part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–3797c) are amended by striking out "Administration" each place it appears and inserting in lieu thereof "Office".

(b) The heading for part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–3797c) is amended by striking out "Part L" and inserting in lieu thereof "Part K".

(c) Park K, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797–3797c) is amended by redesignating sections 1201, 1202, 1203, and 1204 as sections 1101, 1102, 1103, and 1104, respectively.

SEC. 15. (a) Section 1301 of part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799(a)) is amended—

(1) by adding "(1)" after "(a)",

(2) by adding at the end of subsection (a) following new paragraph:

"(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1983 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Office of Justice Assistance with respect to their functions under this title or by operation of law.",

(3) by striking out subsection (j), and

(4) by redesignating subsection (k) as subsection (j).

(b) The heading for part M of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by striking out "Part M" and inserting in lieu thereof "Part L".

(c) Part L, as so redesignated, of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3799) is amended by redesignating section 1301 as section 1201.

TABLE OF CONTENTS

SEC. 16. The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3701–3799) is amended—

(1) by amending the item relating to part A to read as follows:

"Part A—Office of Justice Assistance"

(2) by striking out the item relating to section 103,

(3) by adding at the end of the items relating to part D the following new item:

"Sec. 406. State office.",

and

(4) by amending the items relating to parts E, F, G, H, I, J, L, and M, to read as follows:

"Part E—Discretionary Grants

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for discretionary grant program.
"Sec. 503. Procedure for establishing discretionary programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.

"Part F—Training and Manpower Development

"Sec. 601. Federal Bureau of Investigation training of State and local criminal justice personnel.
"Sec. 602. Criminal justice education program.

"Part G—Administrative Provisions

"Sec. 701. Establishment of Justice Assistance Board.
"Sec. 702. Consultation; establishment of rules and regulations.
"Sec. 703. Notice and hearing on denial or termination of grant.
"Sec. 704. Finality of determinations.
"Sec. 705. Appellate court review.
"Sec. 706. Delegation of functions.
"Sec. 707. Subpena power; authority to hold hearings.
"Sec. 708. Employment of hearing officers.
"Sec. 709. Authority to use available services.
"Sec. 710. Consultation with other Federal, State, and local officials.
"Sec. 711. Reimbursement authority.
"Sec. 712. Services of experts and consultants; advisory committees.
"Sec. 713. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 714. Report to President and Congress.
"Sec. 715. Recordkeeping requirement.
"Sec. 716. Confidentiality of information.
"Sec. 717. Authority to accept voluntary services.
"Sec. 718. Administration of juvenile delinquency programs.
"Sec. 719. Prohibition on land acquisition.
"Sec. 720. Prohibition on use of CIA services.
"Sec. 721. Indian liability waiver.
"Sec. 722. District of Columbia matching fund act.
"Sec. 723. Limitation on civil justice matters.
"Sec. 724. Reimbursement for unused equipment.
"Sec. 725. Staff support; coordination of activities.
"Sec. 726. Repayment.
"Sec. 727. Prison industry enhancement.

"Part H—Definitions

"Sec. 801. Definitions.

"Part I—Funding

"Sec. 901. Authorization of appropriations.
"Sec. 902. Prohibition on use of funds.

"Part J—Criminal Penalties

"Sec. 1001. Misuse of Federal assistance.
"Sec. 1002. Falsification or concealment of facts.
"Sec. 1003. Conspiracy to commit offense against United States.

"Part K—Public Safety Officers' Death Benefits

"Sec. 1101. Payments.
"Sec. 1102. Limitations.
"Sec. 1103. Definitions.
"Sec. 1104. Administrative provisions.

"Part L—Transition—Effective Date—Repealer

"Sec. 1201. Continuation of rules, authorities, and proceedings.".

REFERENCES IN OTHER LAWS

SEC. 17. (a) Any reference to the Law Enforcement Assistance Administration, or to the Administrator of the Law Enforcement Assistance Administration, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice Assistance shall be deemed to be a reference to the Office of Justice Assistance, or to the

Director of the Office of Justice Assistance, as the case may be.

(b) Any reference to the Office of Justice Assistance, Research, and Statistics, or to the Director of the Office of Justice Assistance, Research, and Statistics, in any law other than this Act and the Omnibus Crime Control and Safe Streets Act of 1968, applicable to activities, functions, powers, and duties that after the date of the enactment of this Act are carried out by the Office of Justice of Assistance, Bureau of Justice Statistics, the National Institute of Justice, or the Office of Juvenile Justice Delinquency Prevention shall be deemed to be a reference to the Office of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, or Office of Juvenile Justice Delinquency Prevention, Director of the Office of Justice Assistance or to the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, or the Administrator of the Office of Juvenile Justice and Delinquency Prevention, as the case may be.

TECHNICAL AMENDMENTS TO OTHER LAWS

Sec. 18. (a) Section 5314 of title 5, United States Code is amended by striking out "Director, Office of Justice Assistance, Research, and Statistics.".

(b) Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator of Law Enforcement Assistance.", and

(2) by adding at the end thereof the following new item:

"Director, Office of Justice Assistance.".

(c) Section 1761 of title 18, United States Code, is amended—(1) in subsection (c) by striking out "seven pilot projects designated by the Administrator of the Law Enforcement Assistance Administration" and inserting in lieu thereof "20 projects designated by the Director of the Office of Justice Assistance";

"(d) The provisions of subsection (c) creating exemptions to Federal restrictions on marketability of prison made goods shall not apply unless—

"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.".

EFFECTIVE DATE

Sec. 19. Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

APPLICATION

Sec. 1. (a) In the event that a crime problem of serious and epidemic proportions exists throughout a State or a part of a State, a State (on behalf of itself or another appropriate unit of government) may submit an application under this section for Federal law enforcement assistance.

(b) An application for assistance under this section shall be submitted in writing by the chief executive officer of a State to the Attorney General, in a form prescribed by rules issued by the Attorney General. The Attorney General shall, after consultation with appropriate members of the Federal law enforcement community, approve or disapprove such application not later than ten days after receiving such application.

(c) Federal law enforcement assistance may be provided if such assistance is necessary to provide an adequate response to a crime problem described in subsection (a). In determining whether to approve or disapprove an application for assistance under this section, the Attorney General shall consider—

(1) the nature and extent of the crime problem throughout a State or in any part of a State,

(2) the emergency or extraordinary circumstances which produced the problem,

(3) the availability of State and local criminal justice resources to resolve the problem,

(4) the cost associated with the increased Federal presence,

(5) the need to avoid unnecessary Federal involvement and intervention in matters primarily of State and local concern, and

(6) any assistance which the State or other appropriate unit of government has received, or could receive, under any provision of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

DEFINITIONS

Sec. 2. For purposes of this title—

(1) the term "Federal law enforcement assistance" means funds, equipment, training, intelligence information, and personnel,

(2) the term "Federal law enforcement community" means the heads of the following departments or agencies:

(A) the Federal Bureau of Investigation,

(B) the Drug Enforcement Administration,

(C) the Criminal Division of the Department of Justice,

(D) the Internal Revenue Service,

(E) the Customs Service,

(F) the Immigration and Naturalization Service,

(G) the United States Marshals Service,

(H) the National Park Service,

(I) the United States Postal Service,

(J) the Secret Service,

(K) the Coast Guard,

(L) the Bureau of Alcohol, Tobacco, and Firearms, and

(M) other Federal agencies with specific statutory authority to investigate violations of Federal criminal laws, and

(3) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Commonwealth of the Northern Mariana Islands.

LIMITATION ON AUTHORITY

Sec. 3. (a) Nothing in this title authorizes the use of Federal law enforcement personnel to investigate violations of criminal law other than violations with respect to which investigation is authorized by other provisions of law.

(b) Nothing in this title shall be construed to authorize the Attorney General or the Federal law enforcement community to exercise any direction, supervision, or control over any police force or other criminal justice agency of an applicant for Federal law enforcement assistance.

(c) No funds provided under this title may be used to supplant State or local funds that would otherwise be made available for such purposes.

(d) Nothing in this title shall be construed to limit any authority to provide emergency assistance otherwise provided by law.

PROHIBITION OF DISCRIMINATION

Sec. 4. (a) No person in any State shall, on the ground of race, color, religion, national origin, or sex, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in connection with any activity for which Federal law enforcement assistance is provided under this title.

(b) Paragraph (2) and paragraph (4) of section 712(c) of part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 109 of this Act) shall apply with respect to a violation of subsection (a), except that the terms "this section" and "paragraph (1)", as such terms appear in such paragraphs, shall be deemed to be references to subsection (a) of this section, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such paragraphs shall be deemed to be a reference to the Attorney General.

CONFIDENTIALITY OF INFORMATION

Sec. 5. Section 718 of part O of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (as so redesignated by section 109 of this Act) shall apply with respect to—

(1) information furnished under this title,

(2) criminal history information collected, stored, or disseminated with the support of Federal law enforcement assistance provided under this title, and

(3) criminal intelligence systems operating with the support of Federal law enforcement assistance provided under this title,

except that the terms "this title" and "this section", as such terms appear in such section 718, shall be deemed to be references to this title and this section, respectively, of this Act, and a reference to the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Justice Statistics, and the Office of Justice Assistance in such section 718 shall be deemed to be a reference to the Attorney General.

PROHIBITION OF LAND ACQUISITION

Sec. 6. No funds provided under this title shall be used for land acquisition.

REPAYMENT

Sec. 7. (a) If Federal law enforcement assistance provided under this title is used by the recipient of such assistance in violation of section 204 or for any purpose other than the purpose for which it is provided, then such recipient shall promptly repay to the Attorney General an amount equal to the value of such assistance.

(b) The Attorney General may bring a civil action in an appropriate United States district court to recover any amount required to be repaid under subsection (a).

RECORDKEEPING REQUIREMENT

Sec. 8. (a) Each recipient of Federal law enforcement assistance provided under this title shall keep such records as the Attorney General may prescribe to facilitate an effective audit.

(b) The Attorney General and the Comptroller General of the United States shall have access, for the purpose of audit and examination, to any books, documents, and records of recipients of Federal law enforcement assistance provided under this title which, in the opinion of the Attorney General or the Comptroller General, are related to the receipt or use of such assistance.

REPORT TO CONGRESS

Sec. 9. Not later than April 1 of each year, the Attorney General shall submit to the President, and to the Congress a report describing Federal law enforcement assistance provided under this title during the preceding fiscal year.

LIMITATION ON CIVIL JUSTICE MATTERS

Sec. 10. Federal law enforcement assistance provided under this title may not be

used with respect to civil justice matters except to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

ISSUANCE OF RULES

SEC. 11. The Attorney General, after consultation with appropriate members of the law enforcement community and with State and local officials, shall issue rules to carry out this title.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There is authorized to be appropriated $20,000,000 for each fiscal year ending after September 30, 1983, to provide under this title Federal law enforcement assistance other than funds.

(b) There are authorized to be appropriated for each fiscal year ending after September 30, 1983, such sums as may be necessary to provide under this title Federal law enforcement assistance in the form of funds.

EFFECTIVE DATE

SEC. 13. This title shall take effect on the date of the enactment of this Act.

II

98TH CONGRESS
1ST SESSION

S. 889

To authorize appropriations for the purpose of carrying out the National Violent Crime Program of the Department of Justice for fiscal year 1984, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 23 (legislative day, MARCH 21), 1983

Mr. SPECTER introduced the following bill; which was read twice and referred to the Committee on Judiciary

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A BILL

To authorize appropriations for the purpose of carrying out the National Violent Crime Program of the Department of Justice for fiscal year 1984, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Justice National Violent Crime Program Authorization Act, Fiscal Year 1984".

SEC. 2. On the basis of evidence, information, and documents and testimony collected by the committees and subcommittees of the Congress and the reports and recommendations of various national commissions, including the Na-

tional Commission on Criminal Justice Standards and Goals (1973) and the Attorney General's Violent Crime Task Force (1981), the Congress hereby makes and adopts the following findings:

(1) Violent crime and drug trafficking have become a severe national problem affecting the personal safety and general welfare of citizens of the United States and an intolerable burden upon Interstate Commerce.

(2) The economic costs of crime are estimated to exceed $100 billion per year.

(3) The Federal Government presently allocates approximately $2.5 billion of its annual budget to crime control and criminal justice. This allocation represents just over one-quarter of 1 per centum of the Federal budget.

(4) It is estimated that spending by State and local law enforcement and criminal justice agencies of the various States is approximately $25 billion a year. Due to limited revenues, rising costs, and other factors, the States and localities are severely limited in their capability to provide greater resources for law enforcement and criminal justice.

(5) Every year, serious crime afflicts one in every three American households. One in every ten households is affected by criminal violence.

(6) The violent crime rate in America has reached unprecedented and intolerable levels. The violent crime rate has risen 400 per centum since 1945; the United States suffers from a crime rate which is many times that of any other industrial democracy.

(7) The resources available at all levels of government are seriously inadequate to secure public safety. Consequently, only a small fraction of crimes result in an arrest, a small fraction of arrests result in trial and conviction, in contrast to plea bargain, and only a small fraction of convictions for violent offenses result in sentences to prison.

(8) Career criminals constitute less than 10 per centum of all persons arrested but commit more than 60 per centum of the offenses. Despite the priority accorded to them, career criminals are often not handled effectively due to inadequate resources.

(9) Likewise, crime prevention programs have not been given sufficient resources, resulting in much serious crime that could have been prevented. Particular attention is needed for juvenile offenders to break the escalating crime cycle, for drug addicted offenders and

for providing literacy and training in marketable job skills to prisoners nearing the end of their sentences.

(10) Drug trafficking, which is estimated to have grown to a $80 billion a year business that contributes to and causes a high proportion of the violent activity, has not been curtailed despite recent increases in the level of effort, particularly by Federal enforcement agencies.

(11) The prison systems in more than 40 States are so over-crowded as to be subject to court orders to release inmates prematurely and to deter judges from imposing sentences in individual cases that fit the crime and the criminal. The prison population has risen sharply in recent years. However, in many States few if any prisons have been built in recent decades.

(12) Major efforts are needed to improve the treatment of victims and witnesses in criminal cases and to compensate them for physical and economic injury and loss.

(13) In order to insure speedy justice, numerous court reforms are needed, including improved case screening and diversion programs, use of computers and other techniques to control judicial calendars.

(14) To improve the arrest rate, conviction rate and sentences for career criminals, special units are

needed in police departments, prosecutors' offices, and other agencies.

In light of the foregoing, a comprehensive national program must be commenced. Such a program should devote 1 per centum of the federal budget or approximately $10 billion for a period of up to ten years with the goal of cutting violent crime for profit in half.

SEC. 3. In order to begin such a program in fiscal year 1984 and to begin it in a gradual, orderly manner, there is authorized to be appropriated for the fiscal year ending September 30, 1984, to carry out the National Violent Crime Program:

(a) For the detection, investigation, apprehension, prosecution, and incarceration of individuals involved in violent crime activity and drug trafficking, not otherwise provided for, $1 billion, of which $250 million for construction of new facilities and construction, remodeling, and equipping buildings and facilities at existing detention and correctional institutions shall remain available until expended, and notwithstanding any other provision of law, there is authorized payment in advance for expenses arising out of contractual and reimbursable agreements with state and local enforcement agencies engaged in cooperative violent crime and drug trafficking enforcement activities, as follows:

	(Millions)
Fugitive programs	100
New Federal prosecutions for violent crimes, such as bank and commercial robbery	150
Drug Enforcement	250
Training, lab, identification, and other support services and technical assistance to states by Federal agencies	125
Research and Development, for example, design means to end plea-bargaining and cut trial delays in half	125
Construction of correctional facilities for Federal inmates and operating costs.	100
Temporary detention facilities for State inmate "overflow" and permanent prisons for confinement of all State habitual offenders sentenced to life.	150

(b) For Justice assistance and to carry-out the functions of the Justice Office of Assistance, $3 billion, all of which shall remain available until expended, provided that such Funds may only be used to carry-out the National Violent Crime Program, pursuant to regulations issued by the Head of Justice Office Assistance and policies and priorities established by the Attorney General in consultation with the Congress and appropriate Congressional committees, as follows:

	(Millions)
Improve investigations with special detective squads	250
Improve case screening and diversion	50
Improve violent crime prosecutions by forming career criminal units	50
Improve convict diagnosis, classification, and correctional programming.	150
Prison and other construction	500
Job training/prison industry/functional literacy training	150
Juvenile delinquent intervention	350
Runaways and missing children	150
Victim/witness	250
Crime prevention—Schools	250
Crime prevention—Neighorhoods	250
Crime prevention—Commercial	250
Drug treatment	250
Calendar control applying Research and Development results to specific localities	100

O

By Mr. DOLE:

S. 901. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968; to the Committee on the Judiciary.

JUSTICE PROGRAMS AND INFRASTRUCTURE ASSISTANCE ACT OF 1983

• Mr. DOLE. Mr. President, today I am pleased to introduce the Justice Programs and Infrastructure Assistance Act of 1983, a comprehensive initiative to renew a strong Federal commitment to justice assistance to State and local crime fighting efforts. This measure combines major elements of legislation which I have introduced in the last two Congresses, to aid in the renovation of our Nation's dangerously overcrowded and substandard prisons and jails, with provisions drawn from the justice assistance title of the consensus anticrime package passed during the closing days of the 97th Congress. The bill I send to the desk represents an effort to provide effective, broad-based assistance for State and local law enforcement and correctional activities.

FEDERAL JUSTICE ASSISTANCE

In 1967, the President's Commission on Law Enforcement and the Administration of Justice labeled crime a national, as well as State and local phenomenon, and urged the creation of a Federal agency to support State and local law enforcement efforts. Congress responded to the Commission call by enacting the Omnibus Crime Control and Safe Streets Act of 1968, creating the Law Enforcement Assistance Administration and a major Federal block grant program for local law enforcement and justice assistance. Categorical grants were also established for training, technical assistance, research, statistics, and demonstration projects aimed at crime control.

LEAA promised to be the decisive weapon to win the war on crime—yet crime continued unabated. Unrealistic expectations about crime control assured that where measures of program success required lower crime rates, programs were virtually guaranteed to fail. Deeply rooted social, cultural, economic, and other societal problems affecting crime unfortunately do not always permit even a strengthened criminal justice system to reduce crime rates. During its tenure LEAA directed some $7 billion in justice assistance to States and localities, yet crime rates continued to rise.

While LEAA did not win the war on crime, I believe it did significantly strengthen local law enforcement capabilities and operations and improved criminal justice administration. LEAA became a strong catalyst bridging the gap that existed between law enforcement research and the development of working programs, even though its assistance only represented 3 or 4 percent of the Nation's total crime fighting expenditures. Many successful law enforcement programs spearheading today's anticrime efforts were developed, tested, and proven under LEAA leadership. Career criminal prosecutions, "sting" operations, and prosecutor and court management programs developed with LEAA grant funds and technical assistance represent several of the many significant and effective projects fostered under LEAA.

As the goal of overall crime reduction continued to elude LEAA, Congress began a revision of the LEAA grant and administrative structure. A search continued for programs that would produce measurable successes and efforts were shifted to other important goals such as strengthening and coordinating the various elements of the law enforcement and criminal justice system. Funds were directed toward alternatives to incarceration and modernizing local corrections facilities; new court and prosecutor management information and training programs were funded, and juvenile justice programs were given a separate organizational identity with the Office of Juvenile Justice and Delinquency Prevention.

The 1979 Justice Systems Improvement Act brought LEAA and the new research and statistical agencies NIJ and BJS under the superagency umbrella of the Office of Justice Assistance Research and Statistics. Congress also began to reform justice assistance with revised grant procedures which encouraged innovations but established a strong commitment to programs of proven success. Unfortunately, the new grant and administrative structure designed by the 1979 act failed in large measure to find sufficient budget or leadership support to allow it to fulfill its charter. As a result, justice assistance now stands at a crossroads with no charted course to address the increasing challenges of crime in the 1980's.

An impressive cross-section of the Nation's top political and law enforcement leadership have testified at length before Senate Judiciary Subcommittees on the need for a strong, continuing and redirected Federal commitment to justice assistance. The Federal Government must renew its resolve to aid the States in attacking the Nation's most serious law enforcement problems—such as violent repeat offenders—and the crisis of our Nation's dangerously overcrowded and deteriorating prisons and jails. This bill is aimed at addressing these and other critical crime problems threatening our Nation's safety and welfare.

JUSTICE ASSISTANCE STRUCTURE

Two new and two existing agencies are included in the new justice assistance structure created by this bill, all under the general authority of the Attorney General. They include the new Office of Criminal Justice Facilities, the new Office of Justice Assistance—which replaces LEAA—and the existing National Institute of Justice and Bureau of Justice Statistics. Each agency will be headed by a Director appointed by the President with the advice and consent of the Senate. Administrative support staff formerly provided by the Office of Justice Assistance, Research and Statistics will be retained in each agency—OJARS is eliminated.

Policy direction and coordination will flow through a new Justice Assistance Board, which will replace the advisory boards created under the 1979 Justice Systems Improvement Act. Voting members of the Board, appointed by the President, will recommend funding priorities and grant selection criteria for the four justice assistance agencies as well as review and evaluate their program activities. This structure will help insulate each

agency from political pressures while at the same time provide a single point of coordination and policy guidance for each agency's programs. The Board will provide a direct voice for the diverse interests of the criminal justice community. Members will be required to have broad knowledge and experience in the justice environment, particularly in the programs and services provided by the new justice assistance agencies.

OFFICE OF JUSTICE ASSISTANCE

The Office of Justice Assistance will administer formula block grants to the States and discretionary grants to States, local units of Government, and private nonprofit organizations. Block grants are targeted to support proven anticrime programs such as those focused on career criminals, white-collar and organized crime, and creation of national and neighborhood anticrime groups. States are required to make a hard cash match for most block grants, and recipients must assume the costs of assisted programs within 4 years; this will help insure that States will develop a strong vested interest in the continuation of assisted projects.

The present cumbersome criminal justice council requirements and the complex grant application and administration provisions have been streamlined and simplified. For example, 80 percent of OJA grant funds will be allocated to the States by population after each State receives a minimum share. States must distribute a share of grant funds to local government based on the proportion of total State criminal justice expenditures represented by local expenditures.

In addition to block grants, discretionary grants are provided for criminal justice education and training programs, technical assistance, demonstration programs, and projects of a national or multistate scale.

EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

Title II of the bill provides specific statutory authority and a funding authorization for emergency Federal law enforcement assistance. It authorizes the Attorney General to approve and coordinate emergency assistance to a State or locality experiencing a crime problem so serious or unique that it cannot be managed with local resources. The Atlanta child murders and the New Mexico prison riots represent the type of extraordinary situations warranting such emergency Federal aid. The assistance generally contemplated amounts to a sharing of Federal resources such as intelligence information, equipment, or personnel. The bill does not provide for an expansion of Federal enforcement powers and does not permit the exercise of any Federal control over local operations or officials. The availability of specific statutory authority to mobilize Federal resources for a local law enforcement emergency will serve to minimize the delay, confusion, and inefficiency inherent in relying on general authority contained in the various Federal law enforcement agency enabling statutes.

STATISTICS AND RESEARCH

The Bureau of Justice Statistics is included within the reorganized justice assistance structure. Its mission of gathering and providing criminal justice statistical and analytical resources remains unchanged and it will continue to support the improvement of State, local, and Federal criminal statistical systems. The National Institute of Justice is also retained in the justice assistance structure. It will continue to peruse its technical assistance, survey, evaluation, and research efforts aimed at strengthening the criminal justice system by identifying and promoting successful criminal justice projects.

PRISON AND JAIL INFRASTRUCTURE ASSISTANCE—FACILITIES

A new Office of Criminal Justice Facilities is created to direct significant new Federal financial assistance which will aid the States in their efforts to reduce epidemic overcrowding and improve substandard conditions in their prisons and jails. The genesis of this initiative is contained in the Criminal Justice Construction Reform Act which I introduced in the last Congress as S. 186 and previously introduced late in the 96th Congress as S. 3209.

The dangerously inadequate condition of our Nation's prisons and jails clearly warrants this Federal initiative. No Federal support for local public works projects has any greater implications for promoting public safety than the renovation of our prisons and jails to bring them into compliance with basic constitutional standards. Thirty-nine States have lost or are defending major lawsuits challenging their right to keep major prisons or their entire correctional systems open. Conservative estimates place the cost of bringing the Nation's prisons and jails into compliance with minimum legal standards in the billions. State prison populations, now standing at over 400,000 inmates, have incredibly doubled in the past 10 years and the rapidly decaying condition of our prisons has created an emergency which simply cannot be adequately managed with local resources alone. The necessity of significant Federal assistance to the States to mitigate this law enforcement crisis was highlighted as a top priority recommendation in the Attorney General's task force on violent crime report.

The Office of Criminal Justice Facilities is created to respond to this crisis. It is authorized to provide a broad spectrum of assistance to the States including grants or bond interest subsidies to enhance State efforts to remedy unlawful confinement conditions and relieve overcrowding in their prisons and jails. To qualify for assistance, a State will submit a plan establishing critical needs and priorities for renovation or replacement of correctional institutions. Importantly, States must also demonstrate that they have undertaken, or plan to implement, significant construction and nonconstruction action plans to remedy substandard and overcrowded prison and jail conditions.

Other types of assistance administered by OCJF will enhance prison industry operations, provide for donation of surplus Federal properties for use as corrections facilities, and create a major clearinghouse resource for criminal justice facilities design.

PRISON INDUSTRIES

The beneficial effects of productive, well-managed prison industry operations on prison stability have been well documented. In order to encourage the States to improve their prison industry operations the Director of the new OCJP will be authorized to certify one qualifying prison industry program per State as eligible for a waiver of Federal restrictions on the transportation and sale of prison industry goods. Most States have expressed strong interest in qualifying for such exemptions, which have only been granted on an extremely limited basis in the past and are no longer available.

CLEARINGHOUSE

To help States develop a state-of-the-art program as well as bricks-and-mortar strategies to mitigate overcrowding and substandard prison environments, the OCJP will operate a criminal justice facilities clearinghouse. The clearinghouse will dramatically expand Federal technical assistance to the States to help them upgrade and more efficiently manage their correctional facilities.

DONATION OF FEDERAL PROPERTY

Several States have recently had Federal properties transferred on a nondonation basis for prison use; however, present law does not permit outright donations of such property. The bill authorizes the OCJP to recommend the donation of appropriate surplus Federal properties to the States for use as correctional facilities.

NATIONAL INSTITUTE OF CORRECTIONS

The impact of renovation and construction assistance on prison program, staffing, and other operational demands are significant. For every dollar spent on construction, over $10 will be required for staffing and operations over a typical prison facility life-cycle of 30 years. Program, staffing, and management practices are a vital element in determining whether conditions in a prison facility comply with legal standards. The bill addresses these important needs by authorizing increased funds for the National Institute of Corrections to enhance and expand their training and technical assistance programs for State and local corrections officials. NIC has developed many nonconstruction action plans to help State and local officials deal more effectively with prison and

jail overcrowding. Construction assistance under the act should be linked with a good-faith effort by State and local governments to pursue strategies aimed at reducing overcrowding through the use of such action plans as well as new construction initiatives.

CONCLUSION

I urge my colleagues to join me in sponsoring this legislation I believe that it represents a comprehensive vehicle for addressing the critical needs that must be met in any meaningful Federal justice assistance effort. I expect to work closely with Senators THURMOND, SPECTER, BIDEN, and other Judiciary members who have been crafting Federal justice assistance initiatives, and I believe that together we can fashion legislation acceptable to all Members of the Senate who are committed to a strong Federal supporting role in the battle on crime.●

Senator SPECTER. In keeping with this backdrop we will today hear from a very distinguished group of witnesses. Our leadoff witness is the Honorable Leroy Zimmerman, a very distinguished attorney general of the Commonwealth of Pennsylvania. Attorney General Zimmerman and I have had a very close, professional, and personal relationship going back to 1967, when he became the district attorney in Dauphin County. His accomplishments in that post are legendary. He has been elected as the first attorney general of the Commonwealth of Pennsylvania to serve at the pleasure of popular election—an innovation of the constitutional amendment—and he has distinguished himself greatly in that position. He is respected not only in the State but on a national level where he holds key positions as the executive director of the National Attorneys General Association. He coordinates the efforts of the attorneys general nationwide with the Justice Department and still maintains a close liaison with the National District Attorneys Association where he is a professor emeritus. So, Mr. Attorney General, we welcome you here today and look forward to your comments.

Mr. ZIMMERMAN. Thank you, Senator.

Senator SPECTER. Attorney General Zimmerman doesn't customarily begin his testimony until five cameras arrive, but he has waived those customary requirements today.

STATEMENT OF HON. LEROY ZIMMERMAN, ATTORNEY GENERAL, COMMONWEALTH OF PENNSYLVANIA

Mr. ZIMMERMAN. Because of our long-time friendship, Senator. Good morning, Senator. Thank you for that introduction. I am pleased to appear here this morning at this hearing before your subcommittee and lend my support to what you have been doing and are attempting to do in the U.S. Congress on behalf of the war against crime and the important efforts being made by the prosecutors, police and all disciplines in the the criminal justice system in America.

We, the attorneys general know that you as a former prosecutor, as a distinguished district attorney of Philadelphia and a leader in law enforcement in this country certainly are in our corner in the U.S. Senate in providing innovative methods and techniques and legislation to meet this difficult problem confronting our Nation and this Commonwealth. I, as a former district attorney, as attorney general and chief law enforcement officer am also here today as a representative of the National Attorneys General as chairman of their Subcommittee on Criminal Justice, support in concept all of this proposed legislation. I know, Senator, that you are personally aware that several weeks ago I had the privilege to be the attorney general selected by my colleagues to brief the President on the legislative crime package and the perspective problems as we attorneys general see those problems in our Nation in the area of this war against crime.

I trust that I made my case because I underscored what I had to say then and I repeat it today here with you that the need for funding is essential and immediate. The need for funding to the criminal justice system in this country and in this Commonwealth. I also had the opportunity on that same date to brief the Attorney

General of the United States about the cooperative aspects of law enforcement at the Federal and State level. So that I come here today with that background to support this proposed legislation, the Justice Assistance Act, because it is essential that law enforcement have the necessary funding that would be provided by this new legislation to replace LEAA. We know what LEAA was, we know what its strong points were and we know what its weak points did to law enforcement in this country.

I trust with that history, that track record, this new proposed legislation will provide the necessary funding that is so critical. The National Institute of Justice will provide the wherewithal together with the Justice Assistance Act in the Bureau of Justice Statistics to combine developmental, the planning, the transitional and the implementation of funding for programs essential to the success of our fight against crime.

I raise one or two questions that are mechanical perhaps in nature for the record, that is, which method we will utilize to get the funds from the Federal Government to the States. Whether we are talking about the method that was used before under the LEAA system or whether there may be a new proposal in this legislation. I recognize that that is still to be worked out, but it does concern me because I feel the need for funding is extremely urgent and to minimize the bureaucracy would be to get at the problem of solving the need for immediate funding in this war against crime.

Senator SPECTER. Attorney General, on that subject, it may be well to talk for the record about your views. I do not think there is anything that you and I will talk about today that you and I have not talked about before because we meet frequently on these subjects. But I think it is important to put your own views on the record.

There is a debate in process as to whether the funds will be block grants to the State or whether they will be administered directly by the Federal Government, upon application, for specific projects. The legislation which I introduced last year went directly to the programs so that there could be an evaluation made as to the specific programs to take on the limited amount of funds available. Some in the administration prefer the block grant approach, not out of disagreement on individual evaluations, but in accordance with the President's overall approach on block grants. These matters have yet to be resolved and I think your views would be of significance for the record.

Mr. ZIMMERMAN. Well, I don't speak on behalf of the attorneys general when I make this statement because we are so eager that this funding be developed and implemented that we are satisfied to accept the means provided by the Congress to fund law enforcement in the States. I think that local law enforcement, however, and other agencies and disciplines represented within the criminal justice system perhaps may share a strong point of view concerning the mechanism to be established. I, at this point, am so eager to get the funding that I am willing to accept either way. I recognize——

Senator SPECTER. Take it any way you can get it?

Mr. ZIMMERMAN. Take it any way we can get it.

Senator SPECTER. But if you had a preference.

Mr. ZIMMERMAN. Well, I think in Pennsylvania we have in existence the Crime and Delinquency Council represented by all of the disciplines in law enforcement across the spectrum and it could be a workable, in-place mechanism to review and to handle the funding in the Commonwealth of Pennsylvania.

Senator SPECTER. You're talking about the block grant approach?

Mr. ZIMMERMAN. In a block grant approach, yes. However, I recognize debate goes on. I talked to members of the National District Attorneys Association recently. As you are aware, when I addressed them at their annual conference and they feel somewhat the same as the attorneys general. We are so eager for the funding and so in need of the funding because the funding bill went down the last time with the drug czar bill. It was unfortunate and has delayed what the Congress intended to do and what people like you are committed to doing for law enforcement. So, frankly, I think we have in place a structure in Pennsylvania that could take on that responsibility if it will help implement the funding.

The Career Criminal Act, Senator Specter, I, as you know, am concerned about backlogs in delay in the sytem. I am concerned about soft, lenient judges failing to impose appropriate sentences for recidivist, hard line offenders. We see too much of that throughout this country. We see some of that in the Commonwealth of Pennsylvania.

I think that now as the Career Criminal Act has been drafted in its present form that it provides the opportunity for State prosecutors upon request or with a concurrence of local presecuting authority to utilize the Federal system for recidivist in your legislation. I thing it is a strong weapon, Senator. I think it is a positive sign and I think it is a weapon that we, as State prosecutors, can use in conjunction with the Federal system. You know, and I think for the record that it ought to be stated that there has begun a new era of cooperation between Federal and State law enforcement. If that is more than rhetoric, if it is to be more than rhetoric, then this tool, your Career Criminal Act, is a very good beginning at providing the tools and the opportunity for cooperation in the courtrooms and in the investigative process.

There has been, in the past, some questions about the expansion of Federal jurisdiction voiced by my colleagues, the National District Attorneys. I think that the way this bill is drafted today provides the safety mechanisms that were of some concern to us in the past and certainly I am here to personally support your career criminal bill because I think it is a giant step forward.

I address myself to the prison and jail infrastructure assistance proposal, I believe that's Senator Dole's proposal. I can only say this. As prosecutor we can talk tough, we can get good sentences after convictions, but we must have jails to incarcerate these hard line, serious, violent offenders. And I suggest that this plan, and I am not totally familiar with it, I haven't studied it as completely as I might, as I have your other proposals, but certainly I support the concept that there be a manner, a mechanism to provide funding for the construction of new prisons and the improvement of older ones in order that we have the necessary facilities to take care of offenders. I raise the question of what is a plan? How do you define a plan and what will be necessary for the States to get this kind of

funding. Many States are talking about, are in the proposal stage because of the new mandatory sentencing laws that have permeated our States in recent months. I raise that question what constitutes a plan in the language of the bill.

I would conclude, Senator, by saying that the Career Criminal Act is an important first. It is good sound legislation. I think it passes constitutional muster. I feel it provides a working tool for the Federal and State prosecutors. I think the Justice Assistance Act is essential to provide the funding that we need at the State level and to provide the challenge for innovative programs in law enforcement.

I say to you, Senator, and I know that you and I have talked about this before and will continue to talk about it again, crime has increased. Notwithstanding recent statistics I happen to believe that crime is still increasing. I think that what we are confronted with today is the acquiescence quotient in the formula that law enforcement and the citizens of this country must work with. Too frequently people accept the fact that there is going to be a percentage of violent crime on the streets and adjust accordingly. That occurs because, in my opinion, the system has not kept up with the times. We have not been in law enforcement as innovative and creative. As a result, in many instances the private sector is filling the void, private security, industrial theft, computer theft. Places where law enforcement has been slow to move the private sector is beginning to fill that void.

I don't necessarily think that that is all good because it does not speak well for law enforcement. But in business, in our communities, there is this acquiescence quotient in the equation of the criminal justice system and it is a negative quotient in my judgment. This kind of legislation that you, Senator Specter, propose I think is very important to negate that and to restructure and redirect our efforts in this Commonwealth and in this country. Thank you for this opportunity.

Senator SPECTOR. Thank you very much, Mr. Attorney General. Just one or two questions. On the subject of the career criminal bill, as you know, the direction that I have sought is to place an alternative tool at the disposal of the local prosecutors so that it will really be their initiative. I recall my days as district attorney in Philadelphia and how I would have liked to have had a career criminal bill available when I had some 500 career criminals, for example, who were on dockets shopping from one judge to another. It was impossible to bring them to trial because of the difficulties in the Philadelphia criminal justice system.

If I could have called up the U.S. attorney and said pick at random any 5, and that had been done, the other 495 would have been petrified about the prospect of being selected next to go before a Federal court; facing an individual judge calendar; being tried within 90 days; knowing they would get a mandatory 15-year sentence. Then suddenly the judge shopping and the dancing from one courtroom to another would have ended. They would not have gotten 15 years in the Philadelphia court. They might have gotten 5 years which would have been much better than the slap on the wrist or probation of a few months that they did get. There are many cities across the country which have similar problems based

on testimony which has been adduced at hearings which we have had.

Mr. ZIMMERMAN. Well, I think that is correct, Senator and I think the problem that Philadelphia has experienced in the past and you know so well as its district attorney for so many years is one that is shared in other urban areas.

The other side of this issue, of course, is in other areas of the country and certainly in the large part of this Commonwealth where judges are handing out stiff sentences in response to convictions to violent crimes, there is a concern of the Federal expansion by State prosecutors. So, I don't speak today on behalf of the district attorneys. They are here to speak for themselves certainly. But as a concept in the overview as I now see as Attorney General and active in the National Attorneys General, we are trying to bring together Federal and State prosecutors. We have a variety of mechanisms now, cross designation, where we can designate a State district attorney or an assistant as an assistant prosecutor, assistant U.S. attorney and vice versa. A very new mechanism, but designed to further this cooperation. I think your career criminal bill helps in that area, and it does get at the pinhead judges, the weak judges, who simply refuse to impose tough sentences against violent offenders. And this has caused in large measure, this is what caused the crisis of confidence that you and I see and hear about from the people of Pennsylvania. When they go through the shopping center four nights after the trial and find the fellow convicted walking down the other side of the shopping center doing his shopping and walk home and the defendant gets home before the victim. These are thing that contribute to and develop this crisis of confidence. I think this kind of legislation is innovative and it is tough.

Senator SPECTER. Well, Mr. Attorney General, we certainly would not want to leave the impression that the only pinhead judges are in Pennsylvania. There are pinhead judges all across the country, and there are other characterizations which might derive from the same metaphor about others in the criminal justice system who sometimes defeat its purposes.

Now, the career criminal bill is designed to promote the interests of local law enforcement. A local DA can handle the problem, as you were able to handle it in Dauphin County. It is not a matter for the U.S. attorney.

Mr. ZIMMERMAN. Senator, do you feel there is any constitutional, do you think you have met the constitutional problems that were raised in the prior draft of this particular kind of legislation, the equal protection problem?

Senator SPECTER. I think the constitutional issue raised is now met. The Justice Department never did conclude that the act was unconstitutional. The extent of the U.S. Attorney General's opinion was that he was to raise a concern about it, and he never dealt with it in the final conclusion to the President on January 14, because the bill was vetoed on grounds of the drug czar principle. However, in this situation where the U.S. Attorney General, a representative of the Executive, has never had any authority concerning, say, career criminals—to give him half a loaf or 49 percent of the loaf, I do not think it is an encroachment on the Executive's

article II powers, because that's 49 percent more than he had before. It is not saying that 51 percent of some area has been taken from him. So, I think it does pass constitutional muster, the phrase you used in your opening comments.

Mr. ZIMMERMAN. Thank you, Senator.

Senator SPECTER. One other area, Mr. Attorney General, and that is justice assistance. I know that you and I have a common view that if we have an opportunity for $110 billion in justice assistance, we are going to welcome it with open arms, because it has been so difficult to get additional funding from the Reagan administration, given the problems that there have been along budget lines. However, I think it would be worthwhile to explore for just a moment or two, the long-range issue in order to get your comments about the $100 billion program which I have put into the legislative process, realizing that it is a long-term matter. Federal funding in significant quantity is not going to occur this year or next year, and it may well require an upturn in the economy. But I believe we are going to have to be ready with provisions like Senator Dole's prison bill and with more farsighted moves.

What would your evaluation be of a multipronged approach to speedy trials, with calendar control, a mechanism for sentencing, and rehabilitation, where it is possible for the first or second offender not to be released as a functional illiterate without a trade or skill and then, where the offender is a career criminal, and he cannot be rehabilitated, to in effect throw away the key under the habitual offender career criminal approach.

Mr. ZIMMERMAN. Well, I think that the long-range approach is the only sensible way to get at this problem that exists today. We're talking, you have just said it. You are looking from one end to the other of this entire system that we call our criminal justice system. Let me say that I don't think there is anyone in this room here today, all the experts in all the disciplines that are represented will testify that we probably agree that delay is probably one of the basic and inherent evils of the system. Delay of bringing people to trial.

If we can find ways to eliminate that delay by individual calendar, individual judge calendar control or other unique methods and procedures to speed up the day, get the defendant in the courtroom for trial, I think all of that is extremely important. I don't think that you can look and listen too long at the rhetoric of toughness with throwing the key away unless you, at the same time, examine the opportunities for placing people in out-of-jail types of settings. When I say out of jail, I don't like to use some of the phrases that have developed, that have taken on a negative signal in the past, but there have to be alternative settings to nonviolent offenders, first offenders, as you examine this whole system and if we are going to examine it logically.

I think that your long-term approach, realizing that we are playing this against the backdrop of tremendous economic and fiscal constraints in this country, and that has to be recognized, that the long-range approach still must be addressed so that we look at the front end of the system or we look at the back end of the system or the end of it where most of the people look and focus because that is what the product is. If you are going to bring a person out of

prison after 5, 6, or 8 years as a functional illiterate, what have we done? Certainly we have removed him from society and that is positive. Maybe we have made efforts at rehabilitation. I doubt that, because as you have heard me say before rarely do jails rehabilitate. They are there for punishment and to keep the violent offender from society, but I think we have to refocus on that. I think the long-term approach is the way to do it.

Senator SPECTER. One final question, Mr. Attorney General, why is it that you have those five gayly ornamented microphones and I only have this one? [Laughter.]

Mr. ZIMMERMAN. Well, Senator, I was so happy when you invited me to come up here to Harrisburg on my home base to testify before your committee, but if I know you, Senator, the same wires that come from these five emanate from that one.

Senator SPECTER. We do thank you for traveling the long distance here, Mr. Attorney General, all the way from that distinguished building within view across the street. It is always a pleasure to talk to you informally, either in my office or yours, which we do frequently. I think our longstanding collaboration on these important problems will continue and we are making some progress. Thank you very much.

Mr. ZIMMERMAN. Thank you, Senator.

Senator SPECTER. We will now call on the Honorable Richard A. Lewis, district attorney of Dauphin County. Thank you very much for joining us, District Attorney Lewis. You have some large shoes to fill, those of the district attorney of Dauphin County, the Honorable Leroy Zimmerman, who has moved on to State attorney general, but I know that you have done an outstanding job. A graduate of Dickinson Law School, as I recollect, from having reviewed your transcript with your masters degree coming 3 years early in 1969 and you and I have had some occasions to work together on some of the problems in law enforcement. I welcome you here today and look forward to your testimony.

STATEMENT OF HON. RICHARD A. LEWIS, DISTRICT ATTORNEY, DAUPHIN COUNTY, HARRISBURG, PA.

Mr. LEWIS. Thank you, Senator. I would just like to say that I consider it a great honor to have the opportunity to attempt to fill the shoes of Attorney General Zimmerman and that I am delighted the analogy people use is fill the shoes and not fill the jacket.

Senator SPECTER. That is safe to say now. Mr. Zimmerman is gone.

Mr. LEWIS. But Senator, thank you very much for allowing me the opportunity to testify about the Justice Assistance Act of 1983 and the Armed Career Criminal Act of 1983. I have submitted to your office some testimony.

Senator SPECTER. Thank you very much for the testimony. It will be made a part of the record.

Mr. LEWIS. I was going to request that, Senator, and just say that in order to save time because I know you have a lot of other witnesses, I would just like to summarize rather than read the prepared text which is about five or six pages long.

Senator SPECTER. Thank you.

Mr. LEWIS. As to the Justice Assistance Act, speaking as a local prosecutor, we are very much in favor of that particular legislation. I think there has been a loss in the law enforcement community ever since LEAA funding disappeared from the scene. I think local prosecutors as well as local municipalities and other interest groups that are interested in such funding have been at a loss to obtain funds. With the advent of the Justice Assistance Act, and hopefully that is passed into law, it will now give the local municipalities, local police, and local prosecutors an opportunity to secure funding for some very, very important projects.

The types of programs contemplated by the act, I think, go right to the heart of the crime problem in our country, Senator. You contemplate in the act programs that would deal with juvenile crime which is reaching epidemic proportions. You contemplate dealing with the career criminal, a very important topic to contemplate in the system because they are, indeed, responsible for so much of our crime. You contemplate also looking at white collar crime and developing programs to attack white collar crime.

The bill also mentions something I think is very, very important, that is lack in nationwide funds or lack in nationwide training for law enforcement and justice personnel. I think that is an extremely important topic that is covered in your legislation. Also, it is recognized in the legislation that maybe some money can be devoted to revamping of the criminal justice system to produce speedier trials, to make the flow of cases through the system a lot smoother. I think that is very, very important.

The only comments I would like to make, and they are not intended to be negative but they are just intended to be constructive, would be the following: That the legislation contemplates pumping approximately up to $100 million a year, which taken as a whole, is a rather large sum especially in this day and age with the economy the way it is. But the national priority implementation and replication program that is mentioned in the act also contemplates that each State would have a limit of only 5 percent of those funds per year. That simply raises the question of whether or not that amount of funding would be sufficient for the wide variety of programs from every corner of the country and every municipal police department in every town and borough, and so forth. I know that it is not that local law enforcement isn't grateful for the money that is being pumped in, but looking at it in the long run we may say to ourselves, well, simply is that going to be enough. And that is just a point to ponder that I bring up.

Senator SPECTER. On that point, Mr. Lewis, I share your concern and I have looked in the long run, as I have said, to a 10-year program of $100 billion which would be $10 billion a year calculated, roughly, at 1 percent of the Federal budget. The object of that program is to reduce violent crime by 50 percent which is a goal set by the National Commission on Criminal Justice Standards and Goals, a Commission which I served back in 1972 and 1973—10 years ago. A report was made. While it was obviously a judgmental call do you think it realistic to put $100 billion into a system into that kind of a program if we could reduce violent crime in this country by 50 percent?

Mr. LEWIS. The percentage, I think, would be difficult to speculate upon. Nevertheless, the amount of money contemplated in that particular package, I think, certainly leaves the strong possibility that something positive can be achieved. I think a law, speaking on behalf of local law enforcement, that type of concept would be welcome. The other——

Senator SPECTER. A 5-percent share would certainly be more meaningful, wouldn't it?

Mr. LEWIS. That is correct. The other remark I would like to make concerning the Justice Assistance Act and I think Attorney General Zimmerman spoke to it as well is the topic of the block grant. The idea of the block grant. Speaking on behalf of local law enforcement, I think that we feel we would stand, a local agency or a local prosecutor's office or a local police department, might stand a better chance of obtaining funding and have its individual problem and individual need recognized by a State agency that is more familiar with the goings on of that particular justice system, whether it is Dauphin County or whether it is Harrisburg City or what have you, than would be simply applying directly to a Federal agency who would then have to consider applications from all 50 States, from innumerable agencies, police departments, boroughs, municipalities and so forth. So, in that sense we are in favor of the block grant system.

Sure, that may add a little extra bureaucracy into the system, but nevertheless I think local law enforcement might feel more comfortable with that type of approach, more confident that their individual needs would be recognized. But all in all we are very much in favor of the Justice Assistance Act.

One of the, an item I mentioned in the prepared text, would simply be a question of the possibility of extending funding. Instead of 4 years extending it to 6 years. I have noticed, and I have only had brief exposure to the grant process, but I noticed in going, for a district attorney to go to his county commissioners to say here is a funding proposal I have to get a grant for this program or that program, the first thing the county commissioners always are going to say, and any local government agency is always going to say, well, that is fine. It is a nice grant, it is a good project, it is worthwhile, but who is going to fund this project once the Federal funds dissipate? And I think that is very, very important for the local municipalities in this day and age who are hard hit by the economic times. That maybe just extending it just a little longer, just extending Federal funds over a 6-year period as opposed to the maximum of 4, may just be the type of incentive where local governments will say, fine. I am sure we can pick this up in its entirety as opposed to 4.

The other point I mention is the possibility of having the Federal match fund not go below 50 percent in the advent that maybe the 6-year proposal is not contemplated. I notice in the 4-year grant, in the fourth year, the Federal match goes down to 25 percent which would mean the local match would have to be up to 75. Maintaining that no lower than 50 might be the type, again, I don't think it would be that significant in terms of dollars, but might be the type of incentive that would attract more interest by local governments.

Finally, Senator, as to the Career Criminal Act, again, I did make some comments in the prepared text. This is the type of act and the type of proposal that is an extremely attractive option to a local prosecutor. Right now in Pennsylvania if someone is a second-time offender for robbery and/or burglary, they would face a maximum mandatory minimum of 5 years. Also, if it is a robbery or a burglary with a firearm or any other violent felony, an arson or a kidnapping, again, the mandatory minimum in Pennsylvania is 5 years.

This goes certainly far beyond that by saying that a third-time offender, if he has a prior record of two robberies, or two burglaries, or a combination thereof, a third-time offender who commits an armed robbery or burglary, assuming the case was transferred to the Federal court, would face a mandatory minimum sentence of 15 years to life. That is a very, very heavy sentence. I think it is something that a local prosecutor will look at very, very carefully and consider that an option in processing his particular case.

Senator SPECTER. Does it give you a fair amount of leverage?

Mr. LEWIS. I think it would give us a great amount of leverage, Senator. I think it is a very, very attractive proposal.

Senator, SPECTER. Do you have any problems with the judge shopping that I described in Philadelphia, or delays by defense attorneys that might be remedied if you could pick one out of your group, say, and call the U.S. attorney across the street and say take over?

Mr. LEWIS. I don't think we have that to the same extent that you have in the larger city. We are a relatively small county and we only have five criminal judges in our court system. That process, the process of judge shopping, I am not saying never occurs, but it occurs with far less frequency.

Senator SPECTER. Aside from judge shopping you must have problems of delay——

Mr. LEWIS. That is right.

Senator SPECTER. Where an unwarranted continuance is sought, for instance, that certainly would be strong leverage.

Mr. LEWIS. No question about it. It is a very attractive leverage.

But there is another point I think that even speaks more highly of this particular bill in light of some other problems and Senator Dole's proposal. That is, if the case does get referred to the Federal authorities and if the person is convicted and gets the 15 year to life maximum, he serves that in a Federal institution and not in an overcrowded State prison. So that is another very attractive option that the prosecutor would think about or any prosecutor in any State would think about because that person would be serving time in the Federal system.

The only comments, other comments I would like to make regarding the criminal package, even though I am very much in favor of it, I think that as a local prosecutor I would be hesitant to refer any case to the Federal authorities meeting these standards until the question of constitutionality is finally settled down the road by the Federal appellate courts. I think a proscutor calling in the Federal attorneys on a particular felony case or robbery or burglary or fire alarm, I think the local prosecutor still has the responsibility, in the eyes of the victim and the eyes of the communi-

ty, for that particular case. Should he refer that to the Federal authorities and the constitutional question is unsettled in the case perhaps by some technicality is lost on constitutional grounds on the Federal level, well then the local prosecutor is sort of holding the bag in that. So I only say this just to indicate that until that very important constitutional question is finally settled, I think there might be some reluctance of local prosecutors to participate. But once that is settled, I don't see that as a problem.

Senator SPECTER. Mr. District Attorney, thank you very much for your very excellent testimony. We very much appreciate your being here.

Mr. LEWIS. Thank you sir.

Senator SPECTER. We're going to take a 5-minute break then get back to our last two witnesses.

[Brief recess.]

[The prepared statement of Mr. Lewis follows:]

PREPARED STATEMENT OF RICHARD A. LEWIS

Thank you for the opportunity to appear at this hearing to express my views regarding the Justice Assistance Act of 1983 (S. 53) and the Armed Career Criminal Act of 1983 (S. 52).

In recent years, state and county prosecutors have seen the need for more readily accessible program funding to combat crime at the local level. Serious juvenile crime problems plaque our cities and towns, while arson seemingly destroys them. The citizenry, especially the elderly, have become increasingly apprehensive about the presence of crime in the neighborhood. The career criminal continues to earn his livelihood by repeated offenses against the community.

With the loss of the Law Enforcement Assistance Agency as a potential funding mechanism for police and prosecutors at the local level, efforts have had to be made by individual communities to cope with the serious problems caused by crime as well as maintain the level of police and prosecutorial personnel and services.

Needless to say, some valiant efforts have taken place in the last several years. Communities and neighborhood groups have begun to join hands to fight the common foe. But the money has been tight, the personnel have been stretched to the ultimate, and the final results have been less than encouraging in view of the ever-increasing presence of crime in our community. While money does not solve all the problems, a giant injection of federal funds at the community level can only have a positive effect. The legislation embodied in the Justice Assistance Act would pump almost one hundred million dollars per year into the local law enforcement effort. Speaking not only as a local prosecutor but as a citizen of the community, such federal assistance would be most beneficial, most welcomed, and most appreciated.

The types of programs contemplated by the Act certainly go to the heart of some of the problems in the criminal justice system. It draws the necessary focus and attention to the problems caused by career criminals, juveniles, arson, white collar crime, as well as recognizing the need for continued training of personnel within the criminal justice system and the streamlining of the system itself.

While I support the Justice Assistance Act of 1983 I must raise certian questions about the impact of the Act itself. Even though the mechanics of distributing the money seem to be streamlined, the question arises as to whether the amount of money earmarked for this legislation is sufficient since geographic distribution of the funds is a factor. Since no state shall receive more than five percent of the total dollar amount of grants under the National Priority Implementation and Replication Program, a large metropolitian state such as Pennsylvania, with an extremely large amount of municipalities, Justice Agenicies and community based groups that will be seeking funds, would be somewhat at a disadvantage.

Secondly, local municipalities frequently face the problem of matching funds to compliment the "federal share" provided under the Act. Should a local municipality receive a four year grant, the federal share would be ninety percent during the first year, seventy-five percent during the second year, fifty percent in the third year, and twenty-five percent in the fourth year. Similar provisions exist if the grant duration is from one to three years.

Often times, a local municipality will not consider the benefit of a program as much as whether it can meet the matched funds requirement, and be in a position to fully fund the program following the expiration of the grant. Accordingly, I would suggest allowing the federal share to continue over a six year period, or in the alternative, providing that the federal share decrease to no less than fifty percent during the duration of the grant. In this way, local municipalities would be more likely to sponsor grant applications on the merits of a program and less likely to concentrate on their future financial obligation.

Finally, I feel that the monies should be channeled through state agencies which will have a better idea of the needs of local law enforcement within their jurisdiction. To have one federal agency screening applications from countless police departments, municipalities, justice agencies, local prosecutors and community groups in all 50 states would create havoc.

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The provisions of the Armed Career Criminal Act, as embodied in S. 52, provides an added option to a local prosecutor in dealing with a serious offender.

Under applicable Pennsylvania law, any person who commits a robbery, arson, kidnapping, or other such serious felony (excluding burglary) with a firearm can receive a mandatory five year minimum sentence in a state correctional institution. Additionally, any person who is a repeat violent offender can receive the same mandatory minimum sentence.

The legislation promulgated in S. 52 seems to go one step beyond Pennsylvania law by providing for a mandatory minimum term of imprisonment of not less than fifteen years nor more than life for a person committing, attempting to commit, or conspiring to commit a robbery or burglary if such person has previously been twice convicted of any of those crimes under any state or federal statute. It further provides that this third time offender may be prosecuted in the Federal system.

This proposal is attractive to local prosecutors since it provides for a tougher mandatory minimum sentence (fifteen years compared to five) and, also, could remove the case from the already back-logged state system. Additionally, should the defendant be convicted and sentenced to a term of imprisonment of not less than fifteen years nor more than life, such sentence would be served in a federal institution and not in an overcrowded state prison.

It is interesting to note that such a case occurring at the local level can be considered for federal indictment "only upon the request or with the concurrence of the local prosecuting authority." Such control over the referral process allows the county prosecutor sufficient latitude to analyze many factors, including the strengths and weaknesses of the case and potential state sentences, before referral to the federal authorities.

On the other hand, however, serious objections as to the constitutionality of this legislation will certainly be raised. A defendant arrested on a state robbery charge who finds himself in front of a judge and jury in the federal court system will certainly challenge the legislation that transferred his trial to a different tribunal. No local prosecutor would dare transfer such a case, and

risk losing it in federal court on constitutional grounds, until the federal appellate courts have decisively spoken on the issue.

An added concern is that federal authorities are not prevented from requesting or seeking out cases from the local prosecutor, thus making it difficult not to give the necessary "concurrence". Such selective requests could diminish the confidence of local prosecutors in this legislation. A possible solution would be to delete the phrase "or with the concurrence" from the legislation.

Senator SPECTER. We shall resume now with Prof. Alfred Blumstein, School of Urban and Public Affairs, Carnegie-Mellon University and Commissioner Ronald J. Marks, Bureau of Corrections, Commonwealth of Pennsylvania. Thank you very much for submitting your very excellent testimony in advance. We appreciate that very much. Is Commissioner Marks not here?

Mr. MARKS. Yes, I'm here. Do you want me up there?

Senator SPECTER. Yes, come up here at the same time, Mr. Marks. We will handle this in a panel form as I understand the agreements of our program.

We will begin with you, Commissioner Marks, if we may. Then we will hear from Mr. Blumstein. I think some of the questions will overlap and we'll have a discussion probably. So thank you very much for joining us. Your full text will be made a part of the record. As is our custom, we request that you summarize so that we can have the maximum amount of time for questions.

STATEMENT OF RONALD J. MARKS, COMMISSIONER, BUREAU OF CORRECTIONS, COMMONWEALTH OF PENNSYLVANIA

Mr. MARKS. OK. First of all, let me thank you for being here. I don't know you as well as Attorney General Zimmerman, but I am from Philadelphia so there is some common ground there we can share. I lived in Philadelphia when you were the district attorney.

To summarize, I would say that, we in corrections, who are at the line level at the tail end of the system, who have very little control over who comes to us and who is released—these are done by other agencies—have felt the burden of what I refer to as tougher justice. And as a result of the attitude of tougher justice and mandatory sentencing and the get tough on crime approach, our local jails and our State institutions are all overcrowded. It has created unsafe conditions and it has just made it very difficult to do our job. I think this is true in Pennsylvania, and I think it is true throughout the Nation. We certainly welcome any kind of financial help we can get.

I would like to see any financial help that comes to the State, come in the form of block grants. We have in Pennsylvania the Pennsylvania Commission of Crime and Delinquency, which understands the state of corrections, the state of law enforcement, the whole issue of crime in Pennsylvania, and is in a much better position to make a judgment with regard to where the funding will have the greatest impact.

Obviously, the Prison and Jail Infrastructure Assistance Act is one I have looked at with great interest because it is the one that

would provide the impact, the greatest impact, for me in terms of giving me relief, giving the local jails relief.

THE CAREER CRIMINAL ACT

There is no question about the ability to have people committed to the Federal prison system versus the State system looks very appealing. I don't know whether my counterpart in the Federal prison would feel the same way, because of the overwhelming numbers that would come to the Federal prison system, and obviously they would need some help.

We in corrections, Senator, are constantly playing catchup. Lots of Federal money came to the criminal justice system in the 1970's, but corrections, institutions, did not receive, its fair share. Police departments have become more sophisticated and courts have become more sophisticated. Not that there is not a lot of room for improvement, but there has been very little done nationally to improve our prison systems. As a result of that, we have got a lot of old structures and we have got just an inadequate amount of cells to handle the number of inmates that are sent to us.

I certainly support your Justice Assistance Act, Senate bill 53, and a number of provisions in that bill. I appreciate the opportunity to appear here today. Pennsylvania has a good correctional system, one that is recognized nationally as one of the best, but there is room for improvement. And if we are going to continue this fight on crime and to incarcerate more people, the people working in corrections certainly need to resources to do that.

And your endeavors here and that of Senator Dole's endeavors are the kind of resources we need to help us.

Senator SPECTER. Thank you very much, Commissioner Marks.

Mr. MARKS. You're welcome.

[The prepared statement of Mr. Marks follows:]

Prepared Statement of Ronald J. Marks

SENATOR SPECTER AND DISTINGUISHED OFFICIALS;

I APPRECIATE THE OPPORTUNITY TO PARTICIPATE IN THIS FIELD HEARING REGARDING FEDERAL ASSISTANCE TO STATE AND LOCAL CRIMINAL JUSTICE AGENCIES.

AS CHIEF ADMINISTRATOR FOR THE PENNSYLVANIA BUREAU OF CORRECTION, I AM WELL AWARE OF THE IMPORTANCE THAT FEDERAL ASSISTANCE PLAYS IN DEVELOPING NEW AND INNOVATIVE PROGRAMS WHICH ADDRESS NATIONAL CRIME PRIORITIES. IF IT WERE NOT FOR FEDERAL ASSISTANCE GIVEN TO THE BUREAU OF CORRECTION YEARS AGO, THE IMPLEMENTATION OF MANY VITAL PROGRAMS MAY HAVE BEEN EITHER POSTPONED INDEFINITELY OR NEVER STARTED AT ALL. FOR EXAMPLE, FEDERAL FINANCIAL ASSISTANCE MADE IT POSSIBLE FOR THE BUREAU TO PROVIDE TRAINING TO STATE AND COUNTY CORRECTIONAL OFFICIALS. WITHOUT THAT FEDERAL ASSISTANCE THE BUREAU'S TRAINING PROGRAM WOULD BE YEARS BEHIND WHERE IT IS TODAY. FEDERAL ASSISTANCE ALSO PLAYED A MAJOR ROLE IN DEVELOPING THE BUREAU'S COMMUNITY SERVICES PROGRAM, NOW GROWN TO 15 COMMUNITY SERVICE CENTERS WHICH PROVIDE MEANINGFUL, DAILY SUPERVISION AND SUPPORT TO SOME 325 OFFENDERS AS THEY APPROACH THEIR RELEASE DATES.

THE SHARP REDUCTION OF FEDERAL ASSISTANCE TO THE STATE AND LOCAL CRIMINAL JUSTICE COMMUNITY WILL EVENTUALLY HAVE TO BE ADDRESSED. ALTHOUGH I AGREE THAT THE CRIME PROBLEM IS AND SHOULD BE CONSIDERED A LOCAL PROBLEM TO BE DEALT WITH BY STATE AND LOCAL OFFICIALS, I ALSO RECOGNIZE THAT THESE GOVERNMENTAL ENTITIES SIMPLY DO NOT HAVE THE FINANCIAL CAPABILITY TO ADEQUATELY ADDRESS THE OVERWHELMING PROBLEMS FACING CRIMINAL JUSTICE AGENCIES.

ALTHOUGH CRIME HAS NOT BEEN IDENTIFIED AS THE NATION'S MOST SERIOUS PROBLEM FOR MANY YEARS, THE PUBLIC CONCERN ABOUT CRIME HAS

NONETHELESS CONTINUED TO ESCALATE. THE PUBLIC IS CONTINUALLY REMINDING THEIR ELECTED OFFICIALS THAT THEIR COMMUNITY WILL NO LONGER TOLERATE SUCH CRIMINAL ACTIVITY. REGARDLESS OF WHEN LEGISLATIVE ISSUES SUCH AS MANDATORY SENTENCING, SENTENCING GUIDELINES, PRISON CONSTRUCTION AND THE ABOLITION OF PAROLE DECISION MAKING ARE PASSED BY LAW - THE PUBLIC IS DEMANDING THAT APPROPRIATE AND IMMEDIATE ACTION BE TAKEN.

THIS INCREASING PRESSURE BY THE PUBLIC FOR "TOUGHER JUSTICE" HAS MADE IT EXTREMELY DIFFICULT FOR STATE AND LOCAL GOVERNMENTS TO PROVIDE THE APPROPRIATE RESOURCES TO ADDRESS THE CRIME PROBLEM, REGARDLESS IF IT INVOLVES THE POLICE OR CORRECTIONAL FACILITIES. WE IN CORRECTIONS ARE FORCED TO PRACTICE SIMPLE, ACCOUNTABLE "BASELINE CORRECTIONS." BECAUSE FEDERAL TECHNICAL AND FINANCIAL ASSISTANCE IS LIMITED, MY FIRST PRIORITY IS TO PROTECT THE COMMUNITY WHILE PROVIDING THE OFFENDER WITH ADEQUATE FOOD, CLOTHING, AND MEDICAL CARE. TREATMENT PROGRAMS AIMED AT "CORRECTING" THE OFFENDER, GIVING HIM A SKILL OR AN EDUCATION, ARE EXPENSIVE. BUT IT MUST NOT BE FORGOTTEN THAT CORRECTIONS IS ALSO A PART OF THE CRIME PREVENTION BUSINESS. BY PROVIDING THE OFFENDER WITH THE RESOURCES AND ENVIRONMENT IN WHICH HE CAN IMPROVE HIMSELF, CORRECTIONAL PROGRAMMING IS IN EFFECT HELPING TO PREVENT FUTURE CRIMES BY THE OFFENDER.

THAT IS WHY IT IS MORE IMPORTANT THAN EVER BEFORE TO BE ABLE TO UTILIZE THE FINANCIAL AND TECHNICAL RESOURCES OF THE FEDERAL GOVERNMENT. I BELIEVE THIS LEGISLATION DOES CORRECTLY DEFINE THE FEDERAL GOVERNMENT'S PROPER ROLE IN ASSISTING STATE AND LOCAL CRIMINAL JUSTICE AGENCIES - THAT OF FINANCING RESEARCH, COLLECTING STATISTICS, AND FUNDING DEMONSTRATION PROJECTS. THE MANNER WHEREBY FEDERALLY SUPPORTED PROJECTS ARE FUNDED CONTINUES TO PROVIDE FISCAL ACCOUNTABILITY. ALTHOUGH I FAVOR THE BLOCK GRANT METHOD WHERE FEDERAL FUNDS ARE FORWARDED TO A STATE CRIMINAL JUSTICE PLANNING AGENCY, I DO RECOGNIZE THAT SENATOR SPECTER'S FORMULA FOR THE GRADUAL REDUCTION OF FEDERAL ASSISTANCE IS APPROPRIATE. IF ONE IS TO

CONCUR THAT THE PROBLEM OF CRIME IS ESSENTIALLY A STATE AND LOCAL CONCERN, THEN IT IS ONLY LOGICAL TO ASSUME THAT THE SOLUTIONS TO THE PROBLEMS ALSO REST ON A REGIONAL BASIS, AND SHOULD NOT BE DECIDED ON A CENTRALIZED FEDERAL LEVEL.

THE PUBLIC HAS MADE ITS FEELINGS KNOWN ONCE AGAIN REGARDING THE BATTLE ON CRIME, AND SENATORS SPECTER AND DOLE, AND OTHER UNITED STATES SENATORS, HAVE BEEN ACTIVELY INVOLVED IN CRAFTING FEDERAL JUSTICE ASSISTANCE INITIATIVES. THEIR VIEW THAT THERE BE A STRONG FEDERAL SUPPORTING ROLE IN THE BATTLE ON CRIME MUST BE HEEDED IF THE STATES ARE TO EFFECTIVELY DEAL WITH THE CRIME PROBLEM.

STATE AND LOCAL CRIMINAL JUSTICE AGENCIES NEED THIS FEDERAL FINANCIAL AND TECHNICAL ASSISTANCE NOW IF ANY PROGRESS IS TO BE MADE IN THE FORESEEABLE FUTURE. STATE AND LOCAL GOVERNMENTAL ENTITIES ARE EXPERIENCING TOO MUCH DIFFICULTY IN PROVIDING JUST THE MINIMUM FINANCIAL FUNDING TO OPERATE OUR CRIMINAL JUSTICE AGENCIES. IF ANY PROGRESS IS TO BE MADE ON CRIME AND ITS ACCOMPANYING PROBLEMS OF PRISON OVERCROWDING, COURT CONGESTION AND DELAY, DESPARATELY NEEDED TRAINING EFFORTS, ETC., THEN FEDERAL FINANCIAL ASSISTANCE MUST ONCE AGAIN BE PROVIDED.

BECAUSE THERE IS A COMMON BOND BETWEEN SENATOR SPECTER'S "JUSTICE ASSISTANCE ACT" AND SENATOR DOLE'S "JUSTICE PROGRAMS AND INFRA-STRUCTURE ASSISTANCE ACT," I WOULD ALSO LIKE TO COMMENT BRIEFLY ON THE LATTER.

I HAVE PREVIOUSLY STATED THAT THERE IS A MOOD TO CALL FOR "TOUGHER JUSTICE." NO WHERE IS THIS MOOD MORE STRONGLY FELT THAN IN THE NATION'S STATE AND LOCAL PRISON SYSTEMS. WITHOUT QUESTION ONE OF THE MOST PRESSING PROBLEM TODAY IN THE CRIMINAL JUSTICE SYSTEM IS THE CROWDED CONDITIONS FOUND IN FEDERAL, STATE AND LOCAL CORRECTONAL FACILITIES.

I AM PROUD TO SAY THAT PENNSYLVANIA HAS ALWAYS DISPLAYED MODERN AND PROGRESSIVE CORRECTIONAL PRACTICES. PENNSYLVANIA HAS CORRECTLY DIAGNOSED THE ILLS FOUND IN MANY CORRECTIONAL PRACTICES AND IS ACTIVELY SEEKING TO IMPROVE OUR CORRECTIONAL SYSTEM. RATHER THAN MERELY PROVIDING MORE CELLS, PENNSYLVANIA HAS UNDERTAKEN A SYSTEM-WIDE REVIEW OF ITS PRESENT STATE CORRECTIONAL FACILITIES IN ORDER TO DETERMINE WHERE BEST TO ENHANCE OUR INSTITUTIONAL CAPACITY BY 2,880 NEW CELLS. AT THE SAME TIME WE ARE ALSO IMPROVING OUR INTERNAL OPERATIONS. JUST THIS PAST JANUARY THE BUREAU OF CORRECTION IMPLEMENTED A NEW INMATE CLASSIFICATION PLAN, EVEN THOUGH OUR OLD CLASSIFICATION SYSTEM WAS CONSIDERED ONE OF THE BEST IN THE COUNTRY. WE ALSO RECOGNIZE THE PROBLEMS WE WILL FACE WITH REGARD TO OUR INSTITUTIONAL POPULATION, AND THUS ARE UNDERTAKING A STUDY HOW TO BEST ACCOMMODATE THE LONG TERM OFFENDER.

SENATOR DOLE'S PROGRAM OF PROVIDING A SUBSIDY OF PRISON CONSTRUCTION WILL BE WELCOME IN PENNSYLVANIA. THE COMMONWEALTH AND THE BUREAU OF CORRECTION HAVE TAKEN SEVERAL STEPS WHICH ONLY FURTHER DEMONSTRATE THE IMPORTANCE FOR FEDERAL ASSISTANCE IN PRISON CONSTRUCTION. ALREADY THE BUREAU IS RESPONSIBLE FOR A PROGRAM WHEREBY ELIGIBLE INMATES CAN PETITION FOR PLACEMENT INTO ONE OF 15 COMMUNITY SERVICE CENTERS; IMPROVEMENTS IN THE ACTUAL CONFINEMENT OF INMATES IS A CURRENT MAJOR PRIORITY WITH OUR INCREASED EMPHASIS ON MENTAL HEALTH CARE, MEDICAL CARE, TREATMENT PROGRAMS; AND OPERATIONAL AND ADMINISTRATIVE IMPROVEMENTS ARE CONTINUALLY BEING REFINED THROUGH OUR EFFORTS TO ACQUIRE ACCREDITATION FROM THE COMMISSION ON ACCREDITATION FOR CORRECTIONS.

IN SPITE OF ALL THESE EFFORTS TO IMPROVE CONDITIONS AND RELIEVE PRISON OVERCROWDING, THE BUREAU'S OVERCROWDING PROBLEMS CONTINUE TO ESCALATE. CURRENTLY THE BUREAU IS HOUSING OVER 10,400 INMATES IN INSTITUTIONAL FACILITIES HAVING A RATED CAPACITY OF 8,630.

BASED ON THE CURRENT EFFORTS ALREADY TAKEN BY THE COMMONWEALTH AND YET STILL RECOGNIZING THE NEED FOR INCREASED ASSISTANCE FOR PRISON CONSTRUCTION, I ALSO SUPPORT SENATOR DOLE'S PROPOSAL.

I KNOW THAT MYSELF AND OTHER CRIMINAL JUSTICE ADMINISTRATORS LOOK FORWARD TO THE FEDERAL ASSISTANCE AS PROPOSED BY SENATORS SPECTER AND DOLE. WITH FEDERAL FINANCIAL AND TECHNICAL ASSISTANCE, MANY PROJECTS AND PROGRAMS WILL BE ABLE TO BE IMPLEMENTED. ONE DOES NOT HAVE TO BE REMINDED THAT IT IS VERY ATTRACTIVE FOR STATE AND LOCAL GOVERNMENTS TO PARTICIPATE IN PROGRAMS WHERE THE FULL COST IS ONLY GRADUALLY BORNE. A SHARING OF THE FINANCIAL RESPONSIBILITIES OF SUCH CRIMINAL JUSTICE PROGRAMS WILL ALSO MAKE IT MUCH EASIER FOR PLANNING PURPOSES. MANY PROGRAMS NEVER HAVE THE OPPORTUNITY TO BE IMPLEMENTED BECAUSE OF THE INITIAL FUNDING EXPENSES AND BECAUSE THEY OFTEN MUST FIRST PROVE THEIR WORTH PRIOR TO BEING FUNDED.

IT IS MY OPINION THAT PASSAGE OF THE LEGISLATION DISCUSSED TODAY WILL PROVIDE PROGRAMS AND PROJECTS WELL WORTH THE COST INVOLVED TO THE FEDERAL GOVERNMENT. IF STATE AND LOCAL CRIMINAL JUSTICE AGENCIES ARE TO CONTINUE TO COMBAT AND CONTAIN CRIMINAL ACTIVITY, THEN IT ALSO BENEFITS THE NATON-AT-LARGE. SUCH INVOLVEMENT BY THE FEDERAL GOVERNMENT WILL ENABLE PROGRESS TO BE MADE, AND AT A MUCH FASTER RATE.

Senator SPECTER. Professor Blumstein, we will turn to you at this time. I note that you are chairman of the Pennsylvania Commission on Crime and Delinquency and if in your introductory remarks you could outline some of the activities of that commission, I would be appreciative. Starting with when it was formed. It is a relatively new organization.

STATEMENT OF PROF. ALFRED BLUMSTEIN, CARNEGIE MELLON UNIVERSITY SCHOOL OF URBAN AND PUBLIC AFFAIRS, PITTSBURGH, PA.

Professor BLUMSTEIN. Senator, thank you for that opportunity. I am delighted to be able to do so. The original Federal act that created LEAA was followed in Pennsylvania by the creation of the Governor's Justice Commission as the State Criminal Justice Planning agency. In the legislative session of 1978, it was decided to revise the chapter of that agency, and so the Pennsylvania Commission on Crime and Delinquency was then created as the agency responsible both for coordinating and planning the total criminal justice system in Pennsylvania, as well as being the agency responsible for managing LEAA and juvenile justice funds in Pennsylvania.

Senator SPECTER. Is there a Governor's Justice Commission any more?

Professor BLUMSTEIN. There no longer is a Governor's Justice Commission. The PCCD is the replacement agency for that. We have a staff——

Senator SPECTER. Was is enacted in 1978, the last year of Governor Shapp's administration?

Professor BLUMSTEIN. That is correct.

Senator SPECTER. What was the reason for the shift in the title or function?

Professor BLUMSTEIN. I'm not sure that I know all the reasons, but I think there was some concern about the degree to which the functions were centralized within the Governor's office and it was, in large part, a Governor's agency rather than an agency that served all parts of the criminal justice system in all parts of the Commonwealth. Now, the agency is administratively housed within the Governor's office, but views its function as serving the entire criminal justice system. It serves the legislature by performing a variety of analyses, especially legislative impact analyses. It does projections of prison population studies for example. It raises issues of concern about prison and jail overcrowding. In fact, recognizing the importance of that issue, we have recently established a task force on prison and jail overcrowding. When I took over we established a task force on career criminals recognizing the importance of that issue. That task force identified a number of improvements within the system to make sure that prosecutors get earlier identification of the career criminals through better transfer of information from the central criminal records repository in the State out to the local district attorney's office.

So, with the demise of LEAA our functions have diminished in terms of giving out grant money. We still administer the juvenile justice money, and I was delighted to see the confidence expressed

by the variety of witnesses you had today in supporting a block grant program, because it is precisely the PCCD that would be——

Senator SPECTER. You mean you would be opposed to having that block grant administered by your agency?

Professor BLUMSTEIN. We would be in favor of having that administered by our agency since we are delighted at the confidence that the various parts of the system have shown in us, and that they feel that we have done so quite responsibly.

Senator SPECTER. Let the record show my smile and wink at Professor Blumstein when I asked him that question.

Professor BLUMSTEIN. And it is precisely for that reason that we feel that with the variety of perspectives on the PCCD—corrections, judicial prosecutorial, police as well as citizen membership—that we are in a good position to assess the priorities in Pennsylvania. We think we could do much better here in Harrisburg than would an office in Washington in terms of identifying what are the key issues for Pennsylvania.

Senator SPECTER. Would there be administrative costs or overhead which Pennsylvania would receive from the Justice Assistance Act?

Professor BLUMSTEIN. I think that there will have to be administrative costs somewhere or other in making the decisions, in maintaining fiscal integrity in the program. One has to do just so many audits, one has to do monitoring of individual projects to assure that the money is well spent.

Senator SPECTER. What is your funding now? How much do you get from the Commonwealth?

Professor BLUMSTEIN. I believe our budget is about $2 million.

Senator SPECTER. So the existing budget would not be sufficient, say, for you to administer $5 million in Federal grants?

Professor BLUMSTEIN. We engage in both administration of grants as well as planning functions for the Commonwealth. I think that our budget about 2 years ago was not much more, about $3 million, during the period when we were still administering $20 million in LEAA grants.

So that I think one can administer the program without a massive overhead of administration. A key element in the operation of PCCD is the activity of the commission, which now meets quarterly, and there are individuals whose only costs are the expenses to come to Harrisburg; they are the individuals who make the decisions on the grants. We have an important and good staff that does the analysis and the negotiation with the applicants, but that, I think, is part of the necessary task of maintaining a responsible program, here or in Washington.

Senator SPECTER. So you are really saying you could do it cheaper?

Professor BLUMSTEIN. I'm saying we could do it more effectively and I don't think Washington could do it cheaper because the economies of scale are not likely to be better by putting the emphasis in Washington.

If I might address the issue in terms of the principles involved, I think research and statistics are a national problem and a Federal problem, and the Federal Government should be doing research and statistics efforts that benefit the country as a whole. As we

move to action programs, the principle that is relevant there, I believe, is the importance of local decisionmaking, and that is where I think the State is the natural entity to make those decisions.

Senator SPECTER. I would be interested in comments from both of you gentlemen, from your professional backgrounds, on the $100 billion attack on crime from the Federal level.

I see, Professor Blumstein, that you served on the National Crime Commission, in 1968. I am interested in your views, gentlemen, as to the reality of such a program being able to cut violent crime by 50 percent, the target that was set by the 1973 National Commission.

Professor BLUNSTEIN. Let me jump in on that, if you wish. First, I think I would like to consider the scope of activities that would come under such a program. To the extent that it were explicitly targeted on crime predominantly through the criminal justice system, I think it is useful to recognize that LEAA's funds, which never exceeded $1 billion per year, were, I believe, pushed out faster than the system could effectively and responsibly deal with. So that I think as one introduces massive programs—and even $1 billion in that context was reasonably massive—one wants to make sure that one has enough of an infrastructure out there and enough of a programatic strategy to build up the programatic activity in areas in which it can make an effective and useful difference.

To the extent that the scope were to address the much broader issue of seeing to it that many more people would have an important role in our economy and our society than is currently the case—and this situation is likely to get worse with the changes we see in some of our industrial structure—then I think that there is much that could be done, but I would certainly want to see the scope of the agenda sufficiently broad to consider many aspects of crime and the causes of crime.

To the extent that one is looking to make a massive drop in violent crime, I think that in part we have some things going for us and that is demography. The baby boom is coming out of the high-crime ages, and so this may well be a time when nature is working for us. I might point out, by the way, a major concern about that demography is that as the baby boom comes out of the high-crime ages, which are the late teens, it is moving into the high-imprisonment ages which are the midtwenties. So, if you think of it as a pig-in-the-python metaphor, it came through the schools in the 1960's, through crime in the 1970's and through prison in the 1980's. That is why I would like to emphasize the importance of Commissioner Marks' concern and the issues reflected in Senator Dole's bill—that the critical problem of the criminal justice system over the next decade is very much going to be a problem of dealing with the large numbers of people in that imprisonment age.

Senator SPECTER. Let's turn to Commissioner Marks. Your experience goes back to Eastern State Penitentiary.

Mr. MARKS. That is right.

Senator SPECTER. In the system some 28 years. That goes back to 1955. Eastern was closed, when, in the late 1960's?

Mr. MARKS. 1970.

Senator SPECTER. 1970, that's almost late 1960's. One of my earliest experiences was as chief of the appeals division, going to East-

ern State Penitentiary, interviewing applicants for pardons. It was a weird prison. Then we considered reactivating it, I guess, in 1970 after we had the Holmsburg riots.

Mr. MARKS. It was temporarily reactivated for just a very brief period of time, yes.

Senator SPECTER. That was July 4, 1970.

Mr. MARKS. Right.

Senator SPECTER. So our paths have crossed in prison, so to speak.

Mr. MARKS. Yes. [Laughter.]

Senator SPECTER. What do you think of the reality of cutting violent crime if you had a correctional system, if I can use that term, where you had some realistic rehabilitation and incarceration for habitual offenders?

Mr. MARKS. Well, it is very obvious to me that the people in this country are fed up with crime and they have demanded of the elected officials, of judges, that they get tougher on crime. So I believe that there are going to be continually more people coming to prison and for longer periods of time. And this is going to place a great burden on the people who are responsible for administering institutions such as myself. We need that kind of support that this infrastructure bill provides.

Senator SPECTER. Now suppose you had that support and you could give the vocational training and education so you did not release functional illiterates without a trade or a skill, first or second offenders?

Mr. MARKS. I believe very strongly that you have to, in administering a prison system, to have the resources there to permit people to change who want to change. There are some people who will never change, no matter what you do for them. But there are others who will change and I think that if you can equip them with their GED, if you can equip them with better reading skill, if you can provide good work programs, good vocational training, and particularly in the area of drug and alcohol treatment programs, yes, I think that we could have an impact on the next crime. I am really in the crime prevention business. I am trying to prevent the next crime.

It has been by experience over the years, and I have worked in a lot of institutions, that you have to operate them accountably, humanely, and you have to have rehabilitative programs that are available there for the inmates. And I think that some of them will take advantage of them and some of them will not.

Senator SPECTER. Give me a ball-park figure or guesstimate. How many first and second offenders do you think could be rehabilitated if you taught them a trade or a skill, or taught them to read or write, so that when they left the prison system or walked out of Graterford, they would have a chance at a job? Could you rehabilitate 50 percent of the first or second offenders?

Mr. MARKS. I cannot give you a percentage. I can only say to you this: Some people come to jail and they will never come back again. We are using a figure right now of about 30 to 35 percent as recidivists. Some people will come back the second time and then we never see them again. Some people will come back the third time and then we will never see them again. Then there are a small per-

centage of them, who are career criminals, who just keep coming back and coming back and coming back.

Senator SPECTER. All right, Mr. Marks, you have been in business a long time. You have been in business 28 years. You have got to make some conclusions. We have got to have something that I can translate to my colleagues in the U.S. Senate who do not have as much experience as I have had in the criminal law field. I want to say to them, if you take the approach Senator Dole has pushed for three Congresses and I have pushed for two Congresses—that is, to provide sufficient funds which may cost $15 billion over the next 10 years, to provide prisons and rehabilitation facilities—we can take first and second offenders and we can eliminate 60 percent of them. Nobody knows the percentage. It is a professional judgment. Nobody is going to be able to contradict you any more effectively than you are going to be able to establish a figure, but we have to work with conclusions. We have to quantify it in some way so that it will be worth the money to the U.S. Congress.

Don't give me a figure today if you don't want to. Don't give me a figure ever if you don't want to. You have the right to remain silent. [Laughter.]

But I would be interested in a judgment on that. Where can we go?

Mr. MARKS. Well, I think——

Senator SPECTER. It is not a campaign promise on your part, Commissioner Marks.

Mr. MARKS. Oh, I think that you could make an impact on the number of people who keep coming back to prison, who keep committing crimes.

Senator SPECTER. Professor Blumstein, I noticed your comment in your prepared text which was very helpful on the career criminal bill about wanting to have the Federal facilities committed and also your comment about offenses in two States. I think you said two contiguous.

Professor BLUMSTEIN. Noncontiguous.

Senator SPECTER. Aren't two contiguous States sufficient?

Professor BLUMSTEIN. Well, the notion here is that many large urban areas cover two States or more. And the notion is to focus explicitly on the most serious individuals who are unequivocably of Federal interest. And the argument there was to avoid the Philadelphia-Trenton floaters, the Washington——

Senator SPECTER. The difficulty is administering that kind of a program. It is so hard to get a criminal record on somebody, as you have seen, and I probably have seen more than you have. You just can't tell what is happening with a person. Our national record systems are just so bad. But the question I want to direct to you as a final question, because we are past the time and, of course, we could spend a lot more time on this and, as I said, your statement will be included in the record and I would want to maintain our dialog beyond today regarding the Federal commitment on the career criminal bill, and I did discuss this personally with the President back in November of 1981 and it was hammered out with the Office of Management and Budget, and after the most difficult circumstances they are committed to only 500 cases a year. This number represents the very worst. There are 30,000 prison spaces,

but OMB is not going to commit to more. The question is, On a selective basis, if you could pick the one or two or three or four who are the worst, and then seek to use that as a leverage on the State system, what would your thinking be in light of that additional factor?

Professor BLUMSTEIN. I appreciate the desirability of doing that, clearly. The concern I raise is that the legislation does make a potentially massive change in the Federal-State relationship. I can easily see where many county commissioners would put the pressure on their district attorneys to ship all of these cases over to the Feds.

Senator SPECTER. But the prosecution is discretionary. The Federal prosecutor doesn't have to take anything he doesn't want. All the pressure in the world couldn't make him do it.

Professor BLUMSTEIN. And the concern is the degree to which a negotiation that you may have had with President Reagan or Attorney General Smith may not be a negotiation that persists in the next administration. And I think it is those kinds of——

Senator SPECTER. Well, that gives us until 1989. I have just declared on behalf of the President. [Laughter.]

Professor BLUMSTEIN. And so that simply opens a potential that I think must be taken into account in introducing a massive change in relations. And I guess my suggestion was intended to try to test those waters rather than plunging right in without fully dealing with the potential scope of it.

Senator SPECTER. Yes, that is a very fair observation and I think one that has to be recognized.

I wish we could go on beyond, but we cannot. We very much appreciate your presence, Professor Blumstein and Commissioner Marks. We thank you very much.

Mr. MARKS. Thank you for inviting us.

Senator SPECTER. The hearing is adjourned.

[Whereupon at 10:25 a.m. the hearing was concluded.]

[The prepared statement of Professor Blumstein follows:]

Prepared Statement of Alfred Blumstein

Senator Specter and distinguished officials:

I am pleased to have the opportunity to appear before you to address issues of the federal role in justice assistance, enhanced prosecution of the career criminal, and the provision of additional prison facilities to adequately house convicted offenders.

As an introduction, I am Alfred Blumstein, the J. Erik Jonsson Professor of Urban Systems and Operations Research in the School of Urban and Public Affairs at Carnegie-Mellon University, and Director of the Urban Systems Institute there. I have been engaged in research on the criminal justice system since 1966, when I was privileged to serve as Director of the Science and Technology Task Force of President Johnson's Commission on Law Enforcement and Administration of Justice. Several years ago, I chaired a Panel of the National Academy of Sciences that examined the research evidence on deterrence and on incapacitation that tried to estimate the effects of criminal sanctions, especially imprisonment, on crime rates. I currently serve as Chairman of the Committee on Research on Law Enforcement and Administration of Justice of the National Academy of Sciences.

I am also privileged to serve as Governor Dick Thornburgh's appointee as Chairman of the Pennsylvania Commission on Crime and Delinquency. The PCCD is responsible for criminal justice statistical analysis and policy planning in the Commonwealth. We administer Pennsylvania's nationally recognized statewide crime prevention program. We also administer funds provided to Pennsylvania under the Office of Juvenile Justice and Delinquency Prevention Act and are currently closing out our administration of state financial awards under the LEAA program.

Thus, I have strong concerns from diverse perspectives for the legislation pending on justice assistance; research and statistics; prison construction; and habitual offenders.

Before proceeding to the substantive issues on which you have asked for comments, I wanted to express my appreciation for your deep commitment and effectiveness in helping states and local units of government to improve their systems of criminal justice. Also, your vigorous and successful defense of the JJDP Act and its annual appropriation has been applauded throughout the criminal justice planning community.

Justice Assistance Act of 1983, S. 53

I want to strongly support the concepts embodied in S. 53 to enable the federal government to strengthen its role in providing the states and local government with criminal justice financial assistance, and in providing the leadership and resources necessary for a national criminal justice research and statistical capability.

I would urge, however, that the future assistance program operate through block grants because of the broad recognition that the fundamental unit of government for managing action programs in criminal justice is the state rather than the federal government. The nature of the problems differs considerably from state to state, and the relevant priorities and values differ across the states, and this is one area in which there is a general consensus that decentralization to the states is better than centralization of all decision-making in Washington.

In this vein, I hope that the legislation would recognize that planning and coordination for the total criminal justice system is vital to the efficient management of the system, and support in managing formula allocations to the states, and thus mandate these functions be performed at the state level.

One of the lessons I hope we learned from the LEAA experiment is the need for focusing resources on critical problems where the extra money might make a difference. Section 403 of S. 53 enumerates appropriate uses of the new financial assistance, and I would expect this Commonwealth's priorities to fall within that list. For the modest financial assistance proposed in S. 53 to have any discernable impact in any state, the additional dollars must be targeted at only a few of the eligible program areas. I think it is important to recognize, however, that the areas that we view as primary may well be quite different from those chosen by South Carolina, by Iowa, and by Oregon. Therefore, I would urge that the federal legislation not become excessively restrictive, and should recognize that each state may well see its problems and priorities differently. Thus, while I think the states should individually focus their programs, they should have some flexibility to decide where their respective foci should be.

I would like to urge, however, that the legislation identify the priority areas, which should include the problem of prison and jail overcrowding. I believe this to be the most critical problem facing the criminal justice system in the United States today, and it is likely to get worse rather than better for at least the remainder of this decade, spurred largely by the large number of people in the high imprisonment ages of the mid-twenties -- a consequence of the post-war baby boom. Also, it is a problem for which there is no natural

political constituency, and such a problem requires special attention from the federal government.

Program planning at the state level is necessary for effective performance within the criminal justice system and for responsible management of the federal funds, and I believe that such planning should be mandated as a prerequisite for participation in the block grant program. While we believe that states should assume financial responsibility for this function, I would want to leave that option flexible within the program.

I believe it is important to make it clear, as is done in Section 402 of S. 53, that federal support for projects will be phased out. In Pennsylvania over 80% of the projects that were funded initially with LEAA dollars continued on after the federal funds were terminated. This provides an indication of the value offered by and the potential for innovation through the federal grant program.

I am pleased to see that S. 53 compiements -- and does not replace -- the $75 million juvenile justice program under the JJDP Act. Problems confronting juveniles merit special and continuing attention, and that may not occur if their service providers must vie for modest resources with the adult criminal justice system. If the JJDP Program were abolished and juvenile programming were simply added to a list of eligible projects in a new federal financial program without a concomitant raise in the authorized funding level, the obvious effect is a dilution of the federal financial role.

I also believe that there should be a significant federal discretionary program for gaining the benefits of economies of scale in the development of program models, for demonstration projects, and for the support of national infrastructure. But I would emphasize that the bulk of the assistance program -- in the order of 80% -- should be administered by the states through block grants.

Thus, I am comfortable with Sections 501 and 502 of S. 53, which reserves 20% of funds appropriated for purposes of training, technical assistance, multi-state efforts and demonstration programs.

I am pleased to note the commitment on all sides to continue the programs of the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS). There is an unquestioned and crucial federal role to develop new knowledge about crime and crime control and to help convert that knowledge into improved approaches for dealing with the problems and we need measurement systems to know how well we are doing. Pursuing these areas is clearly a federal

responsibility because it is too expensive for the states to do on their own, and the benefits accrue to the entire nation.

The essential qualities that the research and statistics program must display is, of course, quality. In order to achieve that, as well as to have any credibility, it must have the integrity that requires freedom from political manipulation. This can best be achieved by keeping NIJ and BJS separate from the justice assistance program. Consequently, I urge that NIJ and BJS be maintained independent of the grant-making function, each under the guidance of separate statutorily authorized advisory boards, and each under the direction of Presidental appointees as called for in S. 53.

Finally, I want to express support for authorization levels of $100-150 million for the formula grant program and $25 million each for the NIJ and BJS elements. These sums seem to be adequate to enable the federal government to perform a viable role in the research and promotion of proven justice improvement concepts and for the states to place into action the results of their planning and policy analysis.

In this sense, the federal government would be renewing its meaningful role in modestly assisting the states and local governments to pursue the policies and strategies which they have determined to have the greatest impact on their crime problems.

Justice Programs and Infrastructure Assistance Act of 1983, S. 901

Crowding in federal, state and local correctional facilities is the most dominant issue in the criminal justice system today. Crisis conditions exist in many states and localities and a variety of emergency measures have had to be introduced to deal with them.

In Pennsylvania, we have had a history of progressive correctional practices at the state and local level. In recent years we have removed children from jails, developed a substantial number of community-based programs as alternatives to incarceration, and our state and local governments have provided funding for increased prison and jail capacity to accommodate the increasing number of prisoners.

In spite of the above efforts, the number of persons in prisons and jails in Pennsylvania continues to grow faster than our capacity. Crowding will be a problem at the state level, at least until the recently authorized 2,850 new cells are available. Undercapacity at the local level will vary from county to county, but over 20 of our 67 local jails, ranging from the Philadelphia system (with a capacity of 2,190 and a population of 3,500) to the Armstrong County Jail (with

a capacity of 29 and a population of 37), are already stretched beyond their design capacity and the problems at the county level continue to grow at a rapid rate.

Beyond the apparent need for some expansion of capacity, many of our counties are becoming unable to provide safe, secure and humane prison environments because antiquated and aging physical structures are in need of major renovation or replacement. Thirty-nine of the sixty-seven county jails were built prior to 1900 and the average age of the jails is 76.6 years. It is estimated that thirty county facilities in this state need major renovations or total replacement.

Balanced against this obvious need for some renovation and new construction, I suggest that any prison construction subsidy program in essence simply lowers the cost of punitiveness and may thereby, at the margin, reduce the incentives to search for alternative sanctions and controls for those non-predatory, low-risk offenders. There is the danger that having brought prison construction costs down sufficiently to make new prisons politically acceptable, that construction subsidies hide the later but much greater operating costs of staffing and programming for security, maintenance, food, health, education and so forth. Unless these costs are also recognized and appropriated, the debilitating effects of warehousing prisoners will continue. I, therefore, have become somewhat ambivalent to federal subsidies for prison construction.

However, I am moved to support Senator Dole's approach to prison subsidy by the requirements in Section 713 of S. 901 that calls for a state plan and mandate that, in addition to addressing the need for new construction and renovation, states must evidence nonconstruction initiatives in an attempt to relieve overcrowding and improve conditions of confinement in correctional facilities which we in Pennsylvania have already begun.

Since 1981, with the formation of the Pennsylvania Commission on Crime and Delinquency's (PCCD) Alternatives to Incarceration Task Force, the Commission has been studying the overcrowding issues in general and has recently appointed two additional correctional task forces: a Prison and Jail Overcrowding Task Force and a Corrections/Mental Health Task Force which will study and propose non-financial, as well as financial, remedies for the problems and inefficiencies of our state and local correctional systems. Given the amount of effort so far, we would be in a good position to comply with the state plan requirements proposed in this legislation.

The Armed Career Criminal Act of 1983, S. 52

We in Pennsylvania have been addressing the problem of career criminals for a number of years, and within the past two years Pennsylvania has significantly improved its capacity to address the career criminal element. Within the past year, mandatory sentencing legislation has been enacted which provides for a minimum sentence of five years imprisonment for persons convicted of serious violent felonies who:

a) possessed a firearm during the commission of the offense;

b) committed the offense on or near public transportation; or

c) had a previous violent felony conviction within seven years of the instant offense.

As Chairman of the Commission on Crime and Delinquency, I appointed a Career Criminal Task Force in the Spring of 1980 which made significant recommendations to permit identification of these offenders early in their processing by the criminal justice system. The recommendations have been implemented partially through a series of federally funded changes at the state and local level and through the establishment of a centralized, automated master name index for serious offenders which provides accelerated access to criminal history data at the county level.

Thus, Pennsylvania has embarked on a two-pronged approach to the problem by attempting to target serious repeat offenders as early as possible and by imposing significant penalties on these offenders upon conviction.

There can be no disagreement with the principle embodied in S. 53 -- the desirability of identifying the serious, predatory "career criminals" and incapacitating them long enough so that they can not continue to impose their crimes on the rest of us. Thus, while I have no disagreement with the basic proposal, S. 52 as drafted raises for me two critical problems that are associated with the number and scope of offenders covered by the bill.

The first question relates to the large number of offenders who have traditionally been state offenders who now become potential federal offenders. I question the necessity for this potentially radical shift in state-federal relations at this time. To address this concern, I would propose limiting the jurisdiction of the bill to individuals with relevant prior convictions in at least two non-contiguous states. These mobile criminals can more readily be seen to be of important federal interest.

The second issue relates to a policy I have advocated previously, that any sentencing legislation should be accompanied by a prison impact statement, and a demonstrated willingness to bear the cost of that impact. Forty percent of the persons in state prisons -- or about 160,000 persons -- are there for burglary or robbery, and I expect that a large fraction of them would meet the provisions of S. 52. How desirable is it to increase the potential workload of the federal prison system about five-fold, and how willing is Congress to pay for such an expansion? Until those questions are addressed affirmatively, I would suggest that the intent of the legislation could be addressed more appropriately by narrowing the range of offenders who fall within the scope of the law to the most serious ones of the greatest federal interest.

I might indicate that Governor Thornburgh, in formulating his mandatory minimum sentencing legislation in September of 1981, conducted such a prison impact analysis. A previous bill in the Legislature covered many more offenses. The analysis showed that it would have had an excessively large impact on the state prisons. The Governor used those analyses in developing a final sentencing bill that covered a more limited scope of offenses, and that was accompanied by a capital construction bill to provide the prison capacity necessary to accommodate the extra prisoners expected to be generated by the new sentencing provisions. Both bills passed with virtually no opposition. This demonstration of developing responsible sentencing legislation has earned the Governor widespread regard across the nation.

One further proposal I would offer for pursuing the objectives of S. 52 would be to consider the use of federal prisons for long-term offenders, say, those who cannot expect release in less than ten years. Just as the states take long-term prisoners from the local jails, so might the federal government take these long-term prisoners from the states. This would help to alleviate the widespread crowding in state prisons and would take advantage of the greater flexibility in the federal prison system for managing these serious offenders.

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